

THE SOCIAL AND ECONOMIC IMPLICATIONS OF THE FEUING
OF ECCLESIASTICAL PROPERTY IN SCOTLAND IN THE LATE
FIFTEENTH AND SIXTEENTH CENTURIES

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Frontispiece: The Regality of Paisley as it appears on
Blaeu's Map, showing the town itself which
was first feued to the inhabitants in 1490.
(SRO Ref.: RHP 6999/28, photostat)



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Preface

The study of sixteenth century Scotland has within comparatively recent years carried with it welcome elements of re-appraisal and, in its strictest and most constructive sense, 'research' in its aims and methods. The present Thesis is intended to be a contribution to this development in the study of the period in the field of social history.

While submitting the Thesis as my own 'unaided work', my thanks are due to several people who have helped in a personal way to make the research a reality. In the first place, I wish to record my gratitude to my Supervisor, Professor Gordon Donaldson of Edinburgh University, who suggested the subject for my research and who has shown continual interest in my work at both the undergraduate and post-graduate stages. I also wish to thank Mr John Imrie, Keeper of the Records of Scotland, for permission to use reproductions of documents in the Scottish Record Office as illustrative material and for allowing me to have Special Leave from my duties in Register House in order to begin writing the Thesis; Miss Christine Haddow, secretary in the Scottish National Portrait Gallery, who has typed the Thesis so beautifully and who maintained throughout not only her high standard of work but her sense of humour!; Mr J. Burt, Master Bookbinder in the Scottish Record Office, who has bound the Thesis expertly and coped with awkward illustrations; my friend Dr Rosalind K. Marshall, who took the photographs of Strathisla for me; and my brother, Mr John M. Sanderson, for his drawings of Fordyce Castle and the 'Newark' of North Berwick. I also wish to thank Mr R.E. Hutchison, Keeper of the

Scottish National Portrait Gallery, for permission to use the reproduction of Mark Kerr's portrait, the Trustees of the National Library of Scotland for permission to reproduce two pages from the Registers of St Andrews as illustrations and the Royal Commission on the Ancient and Historical Monuments (Scotland) for permission to use the photographs of Monkredding House, Monimail Tower and Rossend Castle, and I am grateful to Miss Cruft of the National Buildings Record of Scotland for her assistance in selecting these illustrations.

Finally, I thank my family for their interest in the work at all stages and for putting up with the sound of the typewriter, the presence of hundreds of Index cards and a considerable amount of irritability during the past months while 'The Peasants' were being put into typescript.

I add the following explanation on the system of providing footnote references. In order to avoid typing over and over again many references, footnotes have not been given where only a general reference is made to a charter, or to a feuar, since the appropriate reference will be found in the Alphabetical List of Feuars in Appendix 2. A footnote has been supplied, however, where extensive quotation has been made from a charter or when a theory or argument has been based on its contents.

Edinburgh,

December 1971.

M.H.B.S.

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List of Abbreviations Used in Appendices

A. & D.	- Register of Acts and Decrees.
ADC	- Acta Dominorum Concilii et Sessionis.
APS	- Acts of the Parliaments of Scotland.
Ayrs.Coll.	- Archaeological and Historical Collections of Ayr and Wigton.
CC 8	- Edinburgh Testaments.
CC 9	- Glasgow Testaments.
Cross.Chart.	- Charters of Crossraguel Abbey.
GD	- A Collection of Private Muniments in Scottish Record Office.
Glasg.Prot.	- Abstracts of the Protocols of the town clerks of Glasgow.
Groome	- Francis Groome's Ordnance Gazetteer of Scotland.
HMC Report	- Report of the Royal Commission on the Ancient and Historical Monuments of Scotland.
Laing	- Laing Charters.
Lib.Dryb.	- Liber S. Marie de Dryburgh.
Lib.Ins.Miss.	- Liber Insule Missarum.
MRR	- Melrose Regality Records.
NLS	- National Library of Scotland.
NSA	- New Statistical Account of Scotland.
OSA	- Old Statistical Account of Scotland.
Paisley Rental	- Rental of Paisley Abbey included, as Appendix, in J.C. Lees, <u>Paisley Abbey</u> .

Peerage	-	Scots Peerage.
PRFC	-	Paisley Abbey Register of Feu Charters in Paisley Public Library.
Reg.Ep.Aberd.	-	Registrum Episcopatus Aberdonensis.
Reg.Ep.Brech.	-	Registrum Episcopatus Brechinensis.
Reg.Ep.Glasg.	-	Registrum Episcopatus Glasguensis.
Reg.Ep.Mor.	-	Registrum Episcopatus Moraviensis.
Reg.Dunf.	-	Registrum de Dunfermelyn.
RFC	-	Register of Abbreviates of Feu Charters of Kirklands.
RMS	-	Register of the Great Seal.
RPC	-	Register of the Privy Council.
RSS	-	Register of the Privy Seal.
SHR	-	Scottish Historical Review.
SRO	-	Scottish Record Office.

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**The social and economic implications of the feuing of
ecclesiastical property in Scotland in the late-fifteenth
and sixteenth centuries**

The social and economic implications of the feuing of ecclesiastical property in Scotland in the late-fifteenth and sixteenth centuries

Introduction

In his article on Church lands at the Reformation, published in the Scottish Historical Review in 1919, Professor R.K. Hannay said, 'the feuing of the church lands is a matter to which adequate attention has not been given by historians of the Reformation.'

Since then writers of authoritative general histories of Scotland and specialised studies in the Reformation period have given increasing attention to this subject in their discussions of the religious, ecclesiastical, social and economic developments of the fifteenth and sixteenth centuries.¹ The scope and purpose of general histories and of books on the Reformation as a whole, however, has, of necessity, limited the treatment of the subject to suggestion of potential lines of investigation and of theories worth putting to the test.

This thesis attempts to assess the extent and characteristics of the feuing movement on kirklands throughout Scotland from about the middle of the fifteenth century until the act of parliament of 1587 by which the superiority of ecclesiastical property, with certain exceptions, was annexed to the Crown. The basic source material

1 D. MacRoberts ed., Essays on the Scottish Reformation 42, 68-9, 71, 77, 207, 219, 428; G. Donaldson, Scottish Reformation 21, 40-3, 46-7, 194; G. Donaldson, James V to James VII 136, 144-5, 239; C. Smout, History of the Scottish People 136-7, 229.

includes the texts of 3,061 feu charters.

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The whole business of feuing was in the nature of an expedient. This being so, it is almost impossible to generalise on any aspect of the movement. Its characteristics depended to a considerable extent on local and current circumstances, on the local effects of national events and pressures and, not least, on the situation and initiative of the persons involved.

The test can be applied, for instance, to the proportion of kirklands feued before and after the Reformation settlement; the figures for lands feued by 1560 range from 1% on the barony of Glasgow to 81% on the lands of Coupar Angus abbey. The pattern could vary even within the scattered territories of one regality; for example, in Dunfermline abbey's lands in Midlothian 62% had been feued by the Reformation but only 24% of its lands over in Fife had been set in feu by then. The picture of land being feued to the occupants or 'sitting tenants' changes from one locality to another, from a cheerful 80% on the barony of Glasgow to a dismal 0% on that of Pluscarden, a situation which calls for local and circumstantial explanation. It will be gathered from the tables in Appendix I that an early feuing programme does not necessarily mean that grants of land are going to the humble 'tillers of the ground' any more than a feuing spree in the post-Reformation period means that the superior is alienating the land to magnates and land-hungry lairds.

Not only was diversity brought about positively by local, or, at

least, current conditions, a matter which will be examined at length, but there was a negative influence which derived from the fact that while alienation of property by feu-ferme was encouraged it was never regulated in detail by statute except in the stipulation that it should not be done 'in diminution of the rental' and in the constant attempts of the government to make Crown confirmation compulsory. The provincial councils of the church, while denouncing the practice in principle permitted it provided the granter evaded breaking the letter of the canon law by not diminishing the rental and gave the feus to the sitting tenants. The act of parliament of 1457 'anent feu-ferme' speaks of 'quhat prelate, barone or frehalder that can accorde with his tenande afore setting of feu-ferme of his awin landis ...'² and over and over again one comes across evidence that the basis of a feu charter was an agreement or contract between granter and feuar, individually in the case of persons of substance and influence and collectively in the case of a group of tenants of more or less equal standing. Agreement may not always have reached paper or parchment but it often did.

For example, on 1 May 1560, Mr David Spens, archdeacon of Dunkeld entered into a contract with Alexander Maxwell of Teiling by which the archdeacon agreed to give Maxwell a feu charter of the lands of Prestoun of Teiling.³ The provisions of the future feu charter are laid down in the contract but the former was also to include

² A.P.S., ii, 49.

³ Reg. of Deeds, iv f.155.

'clauses as sicker as Alexander and his freindis may devise'. The archdeacon undertook to obtain the 'kyndenesse' of John Kinnear of Kinnear, at that time the tenant so that Maxwell might enter into full possession at Whitsunday 1561. On April 15, 1567 Marion Hamilton, prioress of Eccles, and Alexander Hamilton of Innerwick were parties to an agreement by which the prioress promised to grant Hamilton a feu charter of the mains of Eccles, extending to 16 husbandlands, with the mill and mill-lands.⁴ Again, detailed provisions to be included in the feu charter are set down in the agreement, including the fact that Hamilton was to pay 5s per husbandland as augmentation.

A feu-contract of rather a different type was that drawn up between the commendator of Melrose, James Stewart, and the kindly tenants of Kylesmure in Ayrshire on 4 May 1555 by which the former bound himself to 'sett to everyane of the tenentis forsaidis being fund rentalit be him ... in ony the forsaidis landis, in few to thame and thair airis heritablie the landis quhilkis thai bruik now presentlie and ar in rentale of ...'⁵ Details are given of grassums, feu-duties and augmentations and of how the expenses of having the charters written and of obtaining confirmation from Rome were to be shared between the commendator and the tenants. In January 1555/6 Janet Stobo, a widow, and her son Thomas Fergusson, who were tenants of the abbot of Inchaffray, explained to the Lords of Session how that they 'for thair pure maling' had agreed with the abbot 'that thai suld

⁴ Reg. of Deeds, ix, f.133v.

⁵ Morton Papers: GD 150 Box 54, 4 May 1555.

have thair tak in few and heritage siclyke as the remanent tennentis and occupyaris of all uthyr landis of the said abbay hes obtenit in few.'⁶ They were then suing the abbot for non-fulfilment of his agreement.

It is not suggested that the final provisions of a feu charter invariably embody the results of amicable agreement; bargains were certainly driven, the outcome of which depended on the acumen of the parties involved. Nevertheless, the lack of precise ruling on such matters as grassums, the relation of feu-duty to the current rental and on augmentations left the superiors free to arrange matters to their own liking or exposed them to pressure from would-be feuars, as the case might be. Whatever the intended effects of the act of 1457, already quoted, or that of 1503,⁷ which stated that it should be lawful for every lord, baron and freeholder, spiritual or temporal, to set all his lands in feu-ferme, neither statute initiated the practice. It is evident that experiments in feuing were being carried out by churchmen as early as the thirteenth century and one can detect an evolutionary element in early samples of this form of tenure.

The emphasis on agreement extended to the amount of composition paid for Crown confirmation. In 1574 a feuar complained to the Privy Council that the confirmation of her charter was being delayed by the Treasurer although she had presented a signature to him 'dyvers tymes ... offering to him sic reasonable compositioun for the same as

⁶ Register of Acts and Decrees, xii, f.472.

⁷ A.P.S., ii, 244.

my Lord Regentis Grace and Lordis Compositouris suld think meit and convenient.'⁸ In 1584 parliament made one of its frequent attempts to compel feuars to present their charters for confirmation, both those for which the signatures of confirmation were then in the Treasurer's hands and 'utheris that wer not yit aggreit.' These latter were to be presented to the Treasurer before 1 September 1585 'and aggreit with thame for confirmatioun thair of.'⁹

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Although the feuing of the kirklands was essentially an expedient it developed against a background of conditions which intensified as time went on and of events which affected the country and church as a whole. Basically, this widespread alienation of property rights in perpetuity was an attempt on the part of ecclesiastical superiors, in the post-medieval period, to meet the rising cost of living which was due to long-term and immediate causes. From the point of view of the institutions represented by the granters, feuing was bad policy in that while feu-duties remained fixed the value of land rose and that of money fell. When church councils and parliament laid down that the fixing of feu-duties must not be 'in diminution of the rental' they were referring to the current rental at the time of the granting of the charter. At the same time, the prelate or benefice-holder concerned stood to gain materially by pocketing a lump sum as 'down

⁸ Register of the Privy Council, ii, 383.

⁹ A.P.S., iii, 351.

payment' for the charter or by arranging for grassums to be paid to him every few years. Professor Hannay in his introduction to the 'Rentale Sancti Andree' has shown how that these new-style grassums, which were an integral part of the feu-duty, did not go 'through the books' of the archbishopric but were uplifted by Cardinal Betoun himself;¹⁰ the same is probably true of other ecclesiastical superiors. A granter could also expect to benefit from an increase in income which, in his own lifetime, might not be entirely offset by rising costs. Feuing was not so much a short-sighted as a short-term tactic which commended itself to those who were followed by successors rather than by heirs.

Leaving aside the more selfish motives which prompted a short-term solution to the rising cost of living, it is perhaps relevant to observe that rising costs and a continual drop in money-value were thought, in the sixteenth century, to be less inevitable than they are considered to be today. Although, in the long run, prices were steadily rising they tended to do so by the 'three-steps-forward-and-one-backward' method. The price of basic commodities in both burgh and landward areas, fluctuated from one year to another. In 1587 a tenant in the parish of Slains in Aberdeenshire could still speak of a year twenty-four years before as 'the yeir of the deir symmer.'¹¹ Besides, the rise in prices was not as sharp in the first as in the second half of the sixteenth century; it is significant that most

¹⁰ Rentale Sancti Andree, xxviii-xxix.

¹¹ Erroll Charters: GD 175/1183.

parish vicars feued their kirklands after 1560 when the clergy in the lower income brackets were feeling the pinch. Granters could not be expected, therefore, to think very far ahead financially; what really concerned them was the problem of recouping themselves for outlay or loss of income which had already taken place. The well-known attempt to raise feu-duty, at Drygrange on the Melrose estates, resulted in a legal decree which modified the demands of the superior. A gleam of foresight, to the feuar's advantage, is seen in a charter granted by Malcolm, abbot of Arbroath, to Thomas de Tulloch in 1459 in which it is stated that should the lands be damaged by English invasion Thomas would not be required to pay the full feu-duty.¹²

Apart from purely economic pressures an undercurrent of uncertainty in the fields of international politics and religious ideas induced many churchmen to prepare for emergencies which might in some way affect their personal circumstances, so that the feuing movement has to be studied against the background of Anglo-Scottish relations and the progress of the Reformation as an organised force.

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There is another side to the picture, however, that of the feuars. There can be little doubt that the granting of heritable possession of their holdings to hundreds of Scotsmen, many of them small tenants and husbandmen, was more than the inevitable by-product of the landlords' resort to feuing for their own benefit. The evidence suggests that

¹² Register of the Great Seal, v, 1027.

it was also, partly, the successful result of the tenants' bid to take advantage of the landlords' predicament and, partly, evidence of a spirit of self-assertion and desire for material security among the small barons and gentlemen who played so prominent a part in the changing social and religious order of the sixteenth century.

It will be seen in the course of the following examination of the source-material that, although it took place within a framework of events and circumstances which to some extent determined its characteristics, the feuing of the kirklands varied considerably over the period under consideration and throughout the country as a whole. It has to be studied from the local and individual situation outwards, as it were. The final pattern was the result of the actions of the individual landlords and their tenants and others with whom, for one reason or another, they had to deal over the business of feuing, which would appear to strengthen the opinion of Thomas Carlyle that 'history is the essence of innumerable biographies.' An attempt has been made throughout to avoid the pitfall of so many sociologists of putting people in packets but to take account of so-called 'human influence' and even of individual influence where practicable.

Johne the Common-weill has been given a fair amount of attention since one of the things which I have enjoyed most in preparing the material for this thesis has been to catch glimpses of what life was like for the many men and women who, had they not been church tenants, may never have appeared on record at all.

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The subject will be looked at from six different angles, the thesis being divided into six parts. Part one fills in the background and supplies the context by looking, firstly, at the chronological pattern of the feu charters, comparing institutions and areas and indicating the number of charters granted in the period before 1400, before 1500, before 1530 and in each decade until 1587, respectively; secondly, at the character of ecclesiastical landholding and tenancy and the economics of ecclesiastical estate-management, primarily in the sixteenth century - that is, the local setting; and, thirdly, at the immediate causes of the resort to feuing - that is, contemporary factors affecting the country and church as a whole.

Part two is concerned with the personnel, both granters and feuars. In part three the property conveyed in the feu charters is examined; the quantity of each regality feued, where this can be determined, the type of land, rights and privileges contained in the charters and a section on the feuing of the parish kirklands. Part four deals with the financial and economic implications; financial outlay of the feuars, an examination of the feu-duties and an attempt to assess from available details the rise in rents and land value as a result of feuing.

The effects on society are studied in part five; the legal implications, both for granter and feuar, subdivision and amalgamation of holdings affecting the pattern of tenancy, movement of people, the rise of a new class of small proprietors and a handful of case-histories to illustrate the foregoing points. This part will also

contain a section on the cases of hardship and dispute, arising from the feuing of land, which appear in the legal and other records.

Part six is devoted to 'studies in depth' of the feuing pattern in certain areas included in the regalities of the archbishopric of Glasgow, the abbeys of Paisley, Kilwinning, Kinloss, Scone, Coupar Angus and Arbroath and on lands in Forfar and Kincardine belonging to the archbishopric of St Andrews. This part is followed by a summary.

Part One

The Background

Part One: The Background

Chapter One

The chronological pattern of the feu charters

Total Number of Feu Charters of Kirklands

1	Before 1300	..	..	..	..	..	..	..	..	..	8
2	Before 1400	..	..	..	..	..	..	..	..	..	11
3	Before 1500	..	..	..	..	..	..	..	..	..	87
4	Before 1530	..	..	..	..	..	..	..	..	..	76
5	1530s	..	..	..	..	..	..	..	..	..	88
6	1540s	..	..	..	..	..	..	..	..	..	272
7	1550s	..	..	..	..	..	..	..	..	..	646
8	Undated charters before 1 August 1560	..	..	..	..	..	..	..	..	..	123
9	1560s	..	..	..	..	..	..	..	..	..	782
10	1570s	..	..	..	..	..	..	..	..	..	432
11	1580s	..	..	..	..	..	..	..	..	..	348
12	Undated charters after 1 August 1560	..	..	..	..	..	..	..	..	..	58
13	Undated charters which could have been granted before or after 1 August 1560	..	..	..	..	..	..	..	..	..	130

Total Number of Feu Charters 3061

Charters before 1 August 1560 1311

Charters after 1 August 1560 1620

Undated charters 130

Total 3061

Chapter One

The chronological pattern of the feu charters

The following commentary on the Table opposite explains how the figures were arrived at but does not offer reasons why the number of charters varied from one period to another; these will emerge, it is hoped, in the course of later chapters. The main sources from which the charters were gathered are the Register of the Great Seal, the Register of the Privy Seal, two volumes comprising the Register of Abbreviates of Feu Charters of Kirklands, compiled by the Treasurer's clerks, Chartularies, Registers and Rentals of various bishoprics and religious houses and Private Muniments deposited in the Scottish Record Office. These sources have their own particular advantages and disadvantages which are reflected in the numbers in the Table.

The most satisfactory are those which contain the entire texts of the charters, with the date of granting, namely, the Register of the Great Seal, which is stuffed with Crown confirmations of ecclesiastical feu charters, and the Register of Abbreviates which, in spite of its title, gives very full texts and the date of the grant. About 1,800 charters were collected from the former and a further 500 from the latter register. The Register of the Privy Seal is frustrating in that the date of granting is not given and the texts tend to be somewhat abridged. A number of the 'undated' charters in the Table, therefore, come from the Privy Seal register, having appeared in no other record. In the later, unprinted volumes of this register, particularly in those covering the 1580s when the government was

bringing pressure to bear in the matter of confirmation, one finds charters confirmed in batches and if some of these occur, dated, in the Great Seal register it seems reasonably likely that the others contained in the same Privy Seal confirmation were granted about the same time.

Episcopal and monastic chartularies and registers which engross the texts of charters present no difficulty but occasionally details of grants of land in feu-ferme have to be inferred from information in rentals and accounts. The *Rentale Sancti Andree*, for example, contains a number of references to 'augmentations' resulting from important grants made by Cardinal Betoun in the 1540s, for which the texts of the charters have not survived.¹³ This means, not only that the date of granting has to be judged approximately, but that our knowledge of the contents and provisions of such charters is very sketchy. The printed chartulary of the abbey of Inchaffray contains a list of feuars and the lands which they held but in the majority of cases the original charters have not come to light in the sources examined;¹⁴ out of the 58 Inchaffray charters collected, 38 come from the chartulary and are undated. In the Melrose Regality Records, volume 3, there are long lists of precepts of clare constat granted in the 1570s and 1580s to heirs to very small pieces of land in Kylesmure, held on terms which seem to indicate feu-ferme tenure;¹⁵ it seems reasonable to infer that the original feu charters of these lands were

¹³ *Rentale Sancti Andree*, 118, 124, 127, 165, 197, 206.

¹⁴ *Liber Insulae Missarum*, 85-101.

¹⁵ *Melrose Regality Records*, 111, 285-313.

granted in the 1550s when the commendator of Melrose undertook to feu a large number of lands in the barony of Kylesmure to the kindly tenants. A number of Melrose charters, therefore, are classed as 'undated' but before 1560. Information on one or two Coupar Angus charters come from the abbey's Book of Compositions, though this house is well represented in the fuller records such as the Great Seal register. A search for feu charters in the private muniments reveals that people often kept the instrument of sasine, the proof of possession on the basis of a charter, rather than the charter itself; this means that we are sometimes deprived of information on the burdens of the charter and also, at times, of details of feu-duty, though a fair number of charters do turn up among family papers, not having been confirmed or having escaped entry in the government's registers. In the case of undated charters one can often give covering dates from the name of the granter. It has been impossible to say whether some of Archbishop John Hamilton's grants of land belonging to the archbishopric of St Andrews and to Paisley abbey date from before or after 1560, though in the case of the archbishopric there was an extensive feuing programme in the late 1550s; this is also true of the abbey of Arbroath under the commendator Lord John Hamilton; and of other houses where the abbot, bishop or commendator held office for a period before and after 1560.

There are one or two supplementary sources of information on ecclesiastical feu charters. From 1564 onwards the accounts of the Lord Treasurer contain lists of compositions charged for confirmation and, although almost all the grants of land referred to in the Accounts

do turn up in the records, a few, undated, have been added to the total. An early reference to feu-ferme tenure on church land comes from Volume 1 of the Acts of the Parliaments of Scotland; in 1323 certain lands in Fife were said to be held in feu from Dunfermline abbey.¹⁶ In cases of complaint and dispute arising from the feuing of land which came before the Lords of Session feu charters were often produced in court or were quoted from; as a result 37 charters have been collected from the Register of Acts and Decrees.

Since round figures occasionally conceal as much as they declare it is as well to make a few reservations with regard to the totals given in the Table. Obviously, for the earlier period - before 1530 - the chances of survival of the charters is less than in the later sixteenth century and resort to Crown confirmation was less common. A further, important, qualification to be made when counting charters is that land was sometimes feued for the second time, on the resignation of the first feuar, for reasons not always specified but occasionally as a result of 'reduction' of the first grant or voluntarily for a sum of money. This means that there is a percentage of double-counting in the final figures.

Two significant factors in the feuing movement which will be dealt with fully in Chapters 13 and 16, respectively, which are not necessarily reflected in the Table are, firstly, the extent to which the land-holdings were amalgamated or subdivided and, secondly, the way in which the various institutions fit into the chronological

16 A.P.S., 1, 481.

pattern. The number of charters is directly affected by the policy of the granters, whether they divided territories into pieces among the tenants who cultivated them or feued them en bloc to an outsider or to a local laird. Taking the lands of the archbishopric of St Andrews as an example, we find Cardinal Betoun, in the 1540s, granting feu charters to politically-influential noblemen and lairds - his charter to the earl of Huntly contains 24 territories in the baronies of Keig and Monymusk,¹⁷ whereas archbishop John Hamilton tended to feu more land to the occupants in the 1550s - he divided up the lands of South Ferrytoun of Portincraig among 78 inhabitants, though their names are given on one feu charter.¹⁸

Although it appears from the Table that more charters were granted after than before 1560 we shall see later that in the case of certain bishoprics and religious houses feuing took place mostly before the Reformation while others had a later programme; examples of regalities feued mostly before 1560 are Kilwinning, Coupar-Angus, Lindores, Holyrood, Newbattle and the lands of the archbishopric of St Andrews in Forfar and Kincardine; examples of later feuing are Glasgow, Scone, Kinloss, Brechin, Crossraguel and Dunfermline abbey's lands in Fife. This brings us back to the point that what really matters in tracing a chronological pattern is to discover when the various lands which comprised a regality or ecclesiastical estate were first feued, something to which the numbers of feu charters are not in themselves

¹⁷ Register of the Privy Seal, iv, 1819.

¹⁸ Register of the Great Seal, v, 2332.

an accurate guide; in the 'studies in depth' in Part Six emphasis will be laid on grants of individual pieces of land rather than on the feu charters since these often conveyed grants of more than one territory. In this way one can watch the spread of feu-ferme tenure over the land surface, as it were.

Nevertheless, the number of charters as given in the Table does give a general indication of the growth of this movement towards heritable land-holding on ecclesiastical estates. There were only 11 charters fewer in the first twenty-nine years of the sixteenth century than in the whole of the fifteenth, more still in the 1530s and about three times as many in the 1540s. There was another big increase in the decade just before the Reformation-rebellion and the 'peak years' would appear to have been the 1560s, though it should be mentioned here that, of the charters in group (7), that is, those undated but granted before 1560, more were likely to have been granted in the 1550s than in earlier decades, which would make the amount of feuing just before and just after the Reformation almost equal.

Having glanced at the chronological framework we shall now look in more detail at the local setting and at the immediate causes of the growth of the feuing movement in the fifteenth and sixteenth centuries.

Part One: The Background

Chapter Two

Ecclesiastical land-holding and tenancy in the sixteenth century

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Ecclesiastical land-holding and tenancy in the sixteenth century

It is not proposed to discuss here every aspect of life on an ecclesiastical estate and its management but, rather, to concentrate on those conditions which were most likely to affect, or be affected by the gradual spread of feu-ferme tenure which, like the agricultural changes of two centuries or so later, was varied and uneven over the country as a whole and often existed alongside other forms of tenure. However much in early medieval times the bishops as landlords and the monastic houses as members of their Orders had had a conscious policy of farming, tenant-organisation and economic planning, by the sixteenth century all this had undergone changes due to external pressures such as the Wars of Independence, the Black Death, the growth of a money-economy and the need for land-intake and development in order to support an increasing population. This led to a measure of variety in the internal organisation of the ecclesiastical baronies, 107 of which are mentioned in the feu charters.

Keeping the discussion within the context of the landlord/tenant relationship, we shall look, firstly, at the role of the landlords, trying to discover how much practical supervision they actually gave to the running of their regalties; secondly, at the position of the tenants, especially at the various forms of tenure on church lands; and, thirdly, at the economics of ecclesiastical estate management.

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Who were the ultimate landlords of the church tenants? An exercise in simple arithmetic reveals that of 103 men who held the Scottish bishoprics and principal abbacies from the beginning of the sixteenth century until about 1580, no fewer than 48 were laymen, which suggests that 'the patrimony of Christ' was often administered in interests other than those of the church.

In the case of the religious houses the Crown's ability to nominate to vacancies combined with manipulation of the commendatory system, which constituted a kind of dissolution of the Scottish monasteries, benefited both king and nobility. At first a decent arrangement to ensure continuity of administration during a vacancy appointments in commendam were soon twisted into the means whereby the king supplemented his own revenue, rewarded political supporters and civil servants and by which he and the nobility acquired livings for their younger, often illegitimate, sons.

The trend towards secularisation of monastic property is seen in the changing usage of the title 'commendator'. At first the designation was applied to someone, already beneficed, while he administered another, or other, benefices during vacancy. Later, the term in commendam came to describe the manner of holding a second, or subsequent benefices in an attempt to evade the letter of the canon law which forbade the holding of benefices in plurality and provided the clergy with an alternative to making direct application to the pope for a dispensation to do so. Contrary to the original intention this kind of commendation was permanent, giving rise to the term 'perpetual commendator'. In this sense Patrick Hepburn, the bishop

of Moray was commendator of Scone and bishop Robert Reid of Orkney was commendator of the abbey of Kinloss and priory of Beaulieu - and was, incidentally, a testimony to the fact that it was possible to administer as many as three benefices competently. Before the Reformation, however, the term 'commendator' had come to be applied to laymen who held benefices through royal nomination or baronial influence, who may or may not have had a hand in the day-to-day running of their estates, but who certainly drew the bulk of the revenues. The term was by then applied to those who held only one as well as to those who held several benefices in this way. 'By open flattery', declared John Major, 'the sons of our worthless nobility get the governance of convents in commendam ... they covet these ample revenues not for the good help they might render to their brethren but solely for the high positions that these places offer, that they might have the direction of them, and out of them may fill their own pockets.'¹ 'Commendator' had become, in fact, the title of the new-style prelates who were not churchmen at all. It was used in connection with a parochial benefice when, in January 1583/4 the king confirmed a feu charter by John Maxwell who described himself as 'perpetual commendator of the vicarage of the parish church of Dumfries.'²

Kings James IV and James V, pushing to its limits the power to nominate to prelacies which had been wrung from the papacy by 1487 and

1 J. Major, History of Greater Britain, 136-7 (S.H.S.).

2 Register of the Privy Seal, L.f.40.

was recognised as a 'right' of the Scottish kings in 1535, brought some of the richest ecclesiastical lands under Crown control and diverted their rents into the royal treasury. James IV nominated to the archbishopric of St Andrews firstly, his brother, the duke of Ross and, secondly, his illegitimate son Alexander who may have grown up into an enlightened and competent administrator but was killed with his father at Flodden.

Five sons of James V held the revenues of Kelso and Melrose, St Andrews priory, Holyrood abbey, the Charterhouse at Perth and Coldingham priory among them. James Stewart, senior, for whom Kelso and Melrose were administered in his youth by William Hamilton of Sanquhar, and who had an irresponsible record as commendator - on one occasion he tore up and threw at his feet documents which the monks of Melrose asked him to read - managed to die in debt in spite of his wide estates. Robert, commendator of Holyrood, proved himself to be a ruthless landlord when he later became earl of Orkney. James Stewart, younger, later earl of Moray, drew the revenues of St Andrews priory until his death.

In practice, the church lands held by the king's sons were administered as part of the Crown's patrimony from which the king drew revenue and granted pensions. The administrators, or *economi*, whom James V appointed during his sons' minorities were directly responsible to him like other senior officers of the Crown. This situation affected the livelihood and possessions both of the tenants who cultivated the land and the monks whose portions derived from the rents. At one point abbot Alexander Myln of Cambuskenneth, who

administered Holyrood abbey and St Andrews priory for Robert and James Stewart, objected to the king that he considered himself unqualified to renew the tenants' leases because, as administrator on behalf of minors, he had no right to alienate immovable property.³ The king promptly wrote to the pope for the necessary permission to be granted. In 1541 James again wrote to the pope asking that permission might be given to set in feu-ferme the lands belonging to his sons' prelacies, remarking that this would greatly increase the rentals.⁴ The many kindly tenants of Melrose and Coldingham who obtained heritable possession of their lands in the 1550s when the respective commendators were in effective control of their estates probably had James V to thank for it! Royal authority on church lands could have implications of another kind, however. Political factors were introduced in a letter from James V to the 'bailie of our abbay of Melrose', commanding him to clear 'the stedyng of Langley' of the stock and goods belonging to James Douglas of Parkhead who had been forfeited for his activities against the king, and recently captured, and to enter James Hoppringill instead.⁵ In the 1550s the monks of Melrose were threatened with the loss of their livings by the royal commendator, James Stewart, when they objected to his lining his own pockets with the grassums received from the granting of feu charters to the tenants of Kylesmure. He declared that 'gyf the convent wald nocht consent ... he wald discharge the fermeraris and utheris tenentis of the lordschip to ansuer thame

3 D. Hay Fleming, The Reformation in Scotland, 117, 118.

4 Ibid., 119.

5 Liber de Melros, no. 602 (Bannatyne Club).

of thair assignatioun of pensioun assignit to thaim for thair lewing and sustentatioun.⁶

One hears a lot in general histories about the 'greedy' nobles who 'grabbed' the church lands at the Reformation. This oversimplification of what happened to the temporalities of the pre-Reformation church requires some qualification. It was inadvisable, considering the shifting political background to life in mid-sixteenth century Scotland, to 'grab' ecclesiastical property. There were some who did so and later lost their grip, such as the fourth earl of Bothwell who, in 1566, in the days of his political ascendancy, obtained a grant of the temporalities and teinds of Melrose abbey, only to lose them within a year as a result of his forfeiture when they passed from the Hepburns to the Douglasses, the kinsmen of the Regent. Families who gained most from possession of church land were those who had acquired them before the Reformation through the commendatory system, such as the Flemings at Whithorn, the Homes at Jedburgh, the Erskines at Inchmahome and Dryburgh, the Colvilles at Culross and the Hamiltons who, with a combination of lay and clerical commendatorships, worked for two generations to integrate several important regalities into that family's hegemony, though even they suffered temporarily from political misfortune.

Church land held by lay commendators were treated by them as their private estates, creating a wedge of extra-ecclesiastical control in the affairs of the pre-Reformation church and, at a later period,

6 Melrose Regality Records, iii, 156 (S.H.S.).

depriving the Reformed church of much needed financial resources. The possession of ecclesiastical estates provided some noble families with territorial and economic advantage in the field of power-politics, it gave some of their younger members a seat in parliament and a title and, on the debit side, made them liable for their share of the heavy clerical taxation.

A good example is that of the Erskines who held the commendatorship of Dryburgh abbey from 1541. Thomas, second son of lord Erskine, was succeeded as commendator by his younger brother, John, who, on becoming sixth lord Erskine, passed on Dryburgh to his nephew David, illegitimate son of Robert, master of Erskine, who had been killed at Pinkie. David was also commendator of Inchmahome priory: there must have been few illegitimate sons who, having lost their fathers in battle, were so well provided for. Of John, sixth lord Erskine, Knox remarked bitterly that 'if the poor, the schools and the ministry of the kirk had their own, his kitchen would lack two parts, and more, of that which he unjustly now enjoys.'⁷

A lay commendator whose lands were at a distance from his 'home country' or who spent most of his time at Court or in political and diplomatic business could not be expected to undertake the day-to-day running of his estates though he would exercise general supervision over them and visit them when necessary. During the English invasions in the late summer of 1544 Thomas Erskine, then commendator of Dryburgh, wrote to the Queen Dowager; 'your grace hes herd of the greit skayth

⁷ John Knox, History of the Reformation in Scotland, ed. W. Croft Dickinson, i, 344.

wes done be Inglismen this last oulk in Scotland and speciallie besyde my place quhar thai have distroyit all the teindis that I had in thai partis ... and the thing that we haif for to sustene me and the convent bayth lyis in Lowdiane besyde my lord Bothwell; and I am in thai partis now and intendis to put the sammin to sum proffitt, and my said lord intromettis wyth the maist part thairof to his own behuif wythout ony rycht of me and the convent, gevend occasioun to utheris in the parrochoin to do siclyk. Beseikand your grace herfor to write to him effectuouslie to desist ...⁸ The chamberlain of Dryburgh's accounts for 1567, which were audited by the commendator himself, and by Andrew Hagie, vicar of Mertoun, show that David Erskine had been in residence at the abbey 'four sindry times' in the past year.⁹ In October 1566 he had entertained Arthur Erskine, the queen's equerry, and his wife who were on their way to join Queen Mary at Jedburgh. There is mention of repairs to 'my lordis chalmer in Driburgh, the gallorie and trance', of work done in his garden there, repairs to the butts in 'the haugh' and of expenses for stabling of his own and friends' horses over varying lengths of time. Relations with the tenants are indicated in the payments made to a pursuivant who went to Dryburgh, presumably at the commendator's instance, with letters of poinding and inhibition. Arrangements were also made for the renewal of leases.

In the case of the last commendator of Melrose abbey, James

8 Scottish Correspondence of Mary of Lorraine, 105 (S.H.S.).

9 Liber S. Marie de Dryburgh, 396 (Bannatyne Club).

Douglas, second son of William Douglas of Lochleven, the Regent Moray's half-brother, there survives, in the Morton papers, an interesting document which spotlights the transfer of nominally ecclesiastical property to a layman in the post-Reformation period. It is a 'Memoriall anent Melros' in which a legal adviser has jotted down for Lochleven's guidance a list of matters to which he ought to give his attention in obtaining the living for his son who was still under age. The document is worth quoting in full and scarcely requires comment.

'Memoriall anent Melros ¹⁰
[c.1569]

'To advise with maister david Borthwik gif the forme of the signatur be sufficient.

'To advise with him gif it wilbe sure anewch to be providit to James and to declare quhat age he is of.

'Gif he findis the signatur as it standis sufficient anewch bayth in the forme and towardes the persoun notwithstanding his aige then gar begin and wrait a precept to the signet thairon quhilk I suld do gif I wer in the toun Bot ye sall caus James Millar and Mr Johnne Kene pas the same.

'Nixt the signet get alsua the privie seill and last the greit seill. Send to Melros and tak institution and possession according to the command contenit in the end of the provisioun and gar rais instrumentis therupoun.

'Gif Mr David findis the forme of the signatur not gude then desyr him to caus mak ane uther in sic forme as he thinks expedient.

Kepand this uncancellat quhill the uther be subscrivit.

'Tak his opinioun towart ane coadutor or administrator with the barne be ressoun of his less aige and gif necessar ane mon haif the place. Caus mak the forme of the forme of (sic) the signatur and send to Sanctandros to be subscrivit.

'Desire the rentall fra Alexander Balfour of Denemlyn.

'Write to the monkis to send yow the rentall and that the supprior cum and seik yow himself that ye may understand quhair the comoun seill is and quhat chartors is yit unsellit or sett in tak.

'Write to the thesaurar quha wes yconomous, the justice-clerk, and the laird of Bonjedburgt anent the rentall that Mr Hew Douglas had of Melros the tyme that he wes chalmerlane thyrof for the same rentall is in the handis of ane of thame thrie.

'Caus the copy of the rentall be desirit fra Mr James Nicolsoun Bot I feir ther wes nevir a rentall of Melros gevin up to the comptrollar nor yit ony thrid therof pait.

'Gif ye gif assignatioun for the thrid in tyme cuming gif a portioun alsweill of the werst as best pament And suffer nocht the haill thrid to be takin of that thing quhilk is the best pament.

'Luk how the monkis is presentlie pait of thair portionis and in quhat place.

'Luk how mony pensionis ar gevin furth.

'Inquire of the contracts and pactionis that wer betwix the last abbat and the erll of Boithvill.

'Inquire quhat conditionis wer betwix my lord Regent [S] g[race] and the said last abbat.'

The memorandum reveals something of the dislocation which must have accompanied the changes, not only of landlords, but of those whom they made responsible for the management of their estates. The rental book of the previous chamberlain was said to be in the hands of one of three persons, two of whom were central government officials. Another rental was still in the hands of a kinsman of the last commendator; neither of them had been very kind to the tenants of Melrose. The current rental was with the convent. One wonders how efficiently, or fairly, questions of tenancy and possession were answered in the absence of the 'back numbers' of the monastery's rental books. The man who finally undertook the administration of Melrose for young James Douglas was Alexander Colville, already commendator of Culross. It may have been through his influence that Mr Peter Primrose, a native of Culross, became minister at Mauchline, the parish church of Kylesmure; it was certainly Colville, acting in the name of James Douglas, who granted the new minister several feu-charters of land around Mauchline, in place of some of the local tenants.¹¹ The statement that a rental of Melrose was never handed up to the comptroller nor a third accounted for would seem to be incorrect. It appears from advice given to Lochleven that deduction of 'Thirds' might be made, on occasion, from parts rather than from a benefice as a whole.

The hold of the post-Reformation lay commendators on their lands tended to be precarious and their appointments often reflected the

¹¹ Melrose Regality Records, 111, 268, 292, 304.

political fortunes - or misfortunes - of their families. Some houses changed hands in little over a decade after the Reformation.

Coldingham passed through the hands of the Maitlands and Homes, Melrose of the Balfours, Hepburns and Douglasses, Pluscarden of the Douglasses and Setons. At Paisley, the temporarily forfeited Lord Claud Hamilton returned in 1585, ending the bid by the Erskines to absorb these lands which lay on their very doorstep. Alan Stewart, brother of the laird of Cardonald, though he held his commendatorship of Crossraguel for about twenty years, had constantly to maintain his possession in the face of opposition from the earl of Cassillis who was 'on the spot' and whom the commendator once accused of having treated him with physical violence in order to obtain charters of the abbey lands. No Kennedy layman needed a piece of parchment with the king's seal attached to show that his family was in effective control of the abbey's temporal affairs but the Crown admitted this state of affairs in the preamble to a royal tack of the abbey lands which Cassillis obtained in defiance of a previous disposition by Alan Stewart: 'thair Majesties undirstandis that the abbay of Corsraguell hes evir bene disponit to freindis of the hous of Cassillis at the sute of the erlis thereof for the tyme.'¹²

The death of Gavin Hamilton, commendator of Kilwinning, in 1571 caused a by-election in the local politics of the Cunningham district of Ayrshire as a result of which the commendatorship of the abbey went

12 Charters of Crossraguel Abbey, i, 102 (Archaeological and Historical Collections of Ayr and Wigtown).

to Alexander Cunningham the earl of Glencairn's son. In 1586 he transferred the office to James Cunningham, reserving the liferent to himself but the attempt to make the possession of the property hereditary in the Cunningham family was foiled by King James VI who, in 1591, granted it to Mr William Melville, a senator of the College of Justice. Melville had great difficulty in obtaining actual possession, if he ever did so. In February 1591/2 he raised an action against Jean Blair, Alexander Cunningham's widow, her son James and his tutor, James Cunningham of Ashinyairds, and against the last surviving member of the convent dene James Mitchell, the subprior, whom he accused of having the common seal in his possession, because 'the forsaid monastery, place, houses, and yairdis pertening tharto and within the precinct ... ar wrangously kepit, detenit and withalden fra the said persewer.' The defenders were also said to have refused to hand over the 'evidentis' and 'rental bulkis' of the abbey.¹³

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It does not necessarily follow that the attitude of the bishops, abbot and priors who were, in fact, churchmen was any less proprietary with regard to their territorial possessions than that of the lay commendators, nor were they less inclined to use their financial resources in the interests of their own relatives and friends. Behind the appointment and career of many churchmen lay the 'interest' of their families, such as the Hamiltons, Gordons, Campbells, Keiths and

¹³ Eglinton Muniments: GD 3/2381.

Stewarts. On the other hand, many families with small, non-noble beginnings, such as the Bellendens, Betouns, Chisholms, Reids and Duries, owed their increased prosperity to the patronage and generosity of relatives who were ecclesiastics. In the sixteenth century this was not thought to be wrong in itself, but fault was found with those who were unqualified and unsuitable for their position, who did not conscientiously earn the livings which they enjoyed. It was no more immoral for a pre-Reformation cleric to advance the interests of his relatives from his living than for a post-Reformation minister to give money from his stipend to needy friends or even to indulge in money-lending.

Alexander Myln, in his 'Lives of the bishops of Dunkeld' speaks highly of some of the canons who looked after the interests of their younger relatives.¹⁴ Of James Fenton, the precentor, he says 'the precentor maintained a large household in Perth, and furnished the necessaries of life to honest men of his kin.' One of the chaplains in the cathedral, sir Alexander Richardson, 'is a faithful man who presides honourably over a household where he had brought up promising boys of his kin. Some of them have been fitted to enter religious houses, some to be priests, others for choral service.'

In days when canonical election had almost entirely lapsed, when royal and baronial influence in ecclesiastical appointments were at their height and when almost any kind of dispensation was for sale at Rome there were constant attempts to keep prelacies, and the lands

¹⁴ Rentale Dunkeldense, 323, 329 (S.H.S.).

that went with them, within certain families and to engross the lesser benefices in a locality dominated by them. Thus three Chisholms in succession were bishops of Dunblane and during their terms of office a number of diocesan appointments and parochial benefices were held by Chisholms. The succession of Betouns at Arbroath abbey, St Andrews and Glasgow was 'nepotism' in the strict sense of the word. Quintin Kennedy followed his uncle, William Kennedy at Crossraguel in 1547. In the decade before the Reformation bishop Robert Reid, as abbot of Kinloss, Robert Keith, commendator of Deer, William Colville, commendator of Culross and archbishop John Hamilton as abbot of Paisley made arrangements for younger relatives to succeed to their benefices. In 1526 abbot Alexander Hamilton of Kilwinning had subscribed an obligation to accept as his successor a nominee of the earl of Arran¹⁵ and, although this plan was quashed, Gavin Hamilton became commendator of Kilwinning in 1551. In the same year he received the papal appointment of coadjutor to the archbishop of St Andrews with the promise that he would be the latter's successor in the see.¹⁶ During the episcopate of George Brown at Dunkeld eight members of his family held a variety of offices; they included the chancellor, the official general and rural dean of Dunkeld, the steward and master of work, the prebendary of Fern, the vicar of Bendochy, the bailie of Aberlady and the bishop's gardener and brewster. The extent to which cathedral appointments - canonries were especially popular! - were engrossed by

¹⁵ St Andrews Formulare, ii, no.356.

¹⁶ Dalhousie Muniments: GD 45/27/12 (S.R.O.).

a limited number of families can be illustrated in the case of Glasgow. An examination of the Fasti of the cathedral clergy from 1520 to 1560 shows that, in a total of 72 appointments, only 59 individuals were involved and that a proportion of almost three in every four appointments were given to men from families, members of whom already held, or had held, offices in the episcopal administration.¹⁷ These facts suggest not only a good deal of 'ladder climbing' by ecclesiastical careerists but an extensive exercise of patronage by the churchmen at the top of the diocesan ladder since the names of Dunbar, Hamilton, Betoun, Sinclair and Erskine are among those which occur most frequently. The same pattern can be seen at parochial level; the vicarage of Stewarton in Ayrshire which passed from father to son in the 1520s continued in the hands of the Montgomerie family until almost the end of the sixteenth century through a total of five generations.¹⁸

This proprietary attitude among ecclesiastical landlords, a number of whom tended to regard their benefices as personal property, had in it an element of dynasticism which affected the way in which they administered their estates. A modern historian has suggested that the Hamiltons attempted to turn the church into an appanage of their house and attributes this to Chatelherault;¹⁹ but the latter reigned over, rather than governed, the House of Hamilton while the

¹⁷ *Fasti Ecclesiae Scoticanæ Medii Aevi*, 152-196, *passim*.

¹⁸ Blair Muniments: GD 167/8/1 (S.R.O.); *Register of the Privy Seal*, ii, 4735; *Munimenta Universitatis Glasguensis*, ii, 112.

¹⁹ ?

initiative lay with the churchmen of the family. Mark Kerr, who became commendator of Newbattle just on the eve of the religious revolution, laid the foundations of the lordship which was later transformed into an earldom for his son. It was sheer dynasticism which made Donald Campbell, abbot of Coupar from 1526 until 1562, carve estates out of the abbey lands for his five sons, one of whom acted as bailie-depute, and family interest, at least, which caused Alan Stewart, the post-Reformation commendator of Crossraguel, to grant his brother James Stewart of Cardonald feu charters containing thirty-nine separate territories on that comparatively small regality, even if the latter did give him £5000 for them.

A policy of sheer secularisation, to secure his personal livelihood in the event of a crisis, was embarked on by Robert Douglas, provost of Lincluden, in the winter of 1559/60 when many churchmen with fewer resources than he must have been worried about their future prospects.²⁰ On the 10 September 1558 the provost granted three feu charters containing extensive tracts of the church's territory and some salmon fishings to Hugh Douglas of Dalveen. According to a report on the state of the Lincluden lands, drawn up in 1593, the Provost was said to have granted the charters to Dalveen on the understanding that the latter would then resign them and the lands be re-granted to 'whoever else the provost liked.' This was duly done and the lands were granted the second time to John Johnoun, writer to the signet, who was doubtless well paid for his part in the deal. It was

20 W. McDowall, Chronicles of Lincluden, 136-139.

then possible for Johnscoun to infeft the provost in the lands himself 'as ane particular person!' Not only did the provost acquire personal, hereditary possession of these lands belonging to his benefice in this roundabout way but the prebendaries had been induced to grant him a feu charter of some territory on his promise to continue to live at Lincluden with them 'conforme to the fundatioun'. It became apparent, however, that the provost, as well as procuring for himself a private estate intended to abandon his responsibilities to the prebendaries and to the provostry as an ecclesiastical office. Having debated the matter the prebendaries asked Mark Carruthers the notary to make an instrument containing their statement of the case on the 3 February 1559/60. The provost having promised, they said, that the provostry and college should not be 'put in temporall mennis handis' they had granted him a feu charter of certain lands but, they went on, 'we are suyrly informit sensyne that the said provest intendis to be ane lawye man and to mary ane wif, to the uter hurt, ruyne and distructione of the hale provestrye, express againis his promiss maid to us that he suld nevir hurt the privilege of the said provestrye.'

The tussle between the prebendaries and the provost of Lincluden is only one example of situations where the legal partners of an ecclesiastical corporation found themselves at odds over the administration of the property to their mutual benefit and security. It was often the convent of a monastery who lost the case in similar struggles and the end of such stories is to be found in the numerous actions for arrears of portions which were being raised in the courts by monks and nuns well on in the century. The tenants were not the

only victims of the changing character of ecclesiastical landownership.

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The amount of time which a prelate could be expected to give to the supervision of his estates would depend on the number of his other responsibilities. During the sixteenth century, ecclesiastics and post-Reformation bishops and commendators accounted for four chancellors of the realm, thirteen treasurers, three comptrollers, six secretaries, one clerk-register and five presidents of the court of session, not to mention all the churchmen who were Lords of Session and who, therefore, spent a good deal of time in Edinburgh.

There were a number of ecclesiastical commendators some of whom spent very little time at the property which they held in commendam, organising its affairs from a distance, although Patrick Hepburn, bishop of Moray and commendator of Scone, had a house in Perth where he is known to have transacted abbey business.²¹ Cardinal Betoun as archbishop of St Andrews held the abbey of Arbroath in commendam; while he had a house in Edinburgh and was daily involved in the affairs of the central government, and was occasionally abroad on diplomatic business, there is record of the accounts of the archbishopric having been rendered at Arbroath abbey when he may have been in residence.²² Archbishop John Hamilton himself said that he had not visited Paisley abbey during the civil war period, the last years of his life.²³

21 Register of Deeds, xi, f.180.

22 Rentale Sancti Andree, 88 (S.H.S.).

23 J.C. Lees, The Abbey of Paisley, Appendix, xxxii.

In June 1527 the bailies of Aberdeen wrote to the bishop asking him to pay the burgh a visit; their request was not without a touch of sarcasm, 'that sum remembrance ma reman of yow as of mony of your reverend predecessouris.'²⁴ Secular canons, whose consent was necessary to any alienation of the temporalities of the bishopric, were bound by canon law to reside for three months of the year at their cathedrals, but it is evident that many of them managed to evade this duty. The following comments, made during a visitation of Glasgow cathedral in 1501, reveal a considerable amount of non-residence among the canons.²⁵ The archdeacon and the prebendary of Glasgow primo were said to be youths; Stobo, 'sepe exit chorum in tempore divinorum et iterum intrat'; Ashkirk, 'non est in partibus'; Durisdeer, 'non servat suam fundationem in singulis punctis quoad horas'; Ancrum, 'frequenter est in capitulo die Sabathi'; Eaglesham, 'raro moratur in civitate nisi tempore sue residentie'; Tarbolton, 'nullam facit residentiam'; Cambusland, 'non continue moratur in civitate nisi tempore sue residentie'; Carstairs, Ayr, Auld Roxburgh, Kirkmahoe, Sanquhar and Cumnock were said to be non-resident and even the dean was not continually in residence. A tack of 1563 is subscribed by ten members of the chapter including the chancellor, subdeacon and sub-chantor.²⁶ The situation at Glasgow is vastly different from the idyllic picture Myln gives us of the canons of Dunkeld, regularly attending the services, repairing their own manses and the houses of

²⁴ Extracts from the burgh register of Aberdeen, 118 (Spalding Club).

²⁵ *Registrum Episcopatus Glasguensis*, i, no. 542 (Bannatyne Club).

²⁶ Boyd Papers: GD 8/172 (S.R.O.).

their patrons and looking after their aged mothers.²⁷

The absence of an ecclesiastical superior from his headquarters, as it were, did not necessarily hold up business. A surface examination of original charters in private muniments shows that, on a number of occasions, the bishop, abbot, or commendator subscribed in different ink from that used for the body of the document and subscriptions of the chapter or convent, suggesting, either that the charter was taken to him for his subscription or sent to the chapter or convent for theirs. This is sometimes indicated on a charter by a double date of granting which may show a time-gap of a few days or, in some cases, of a few weeks, between the sealing and subscribing of the document by each of the parties. A charter of Paisley lands by archbishop John Hamilton is dated 20 and 22 July 1568 at a time when the political fortunes of his family were his first consideration.²⁸ About the same period there is double-dating on some Scone charters when Patrick Hepburn had fallen foul of the regent's government and was, for some time, a prisoner in Edinburgh.²⁹ We might expect this time-lag to occur in the case of Orkney charters, although bishop Adam Bothwell spent a considerable time in his diocese in the immediately post-Reformation period. Two charters granted by him to lord Robert Stewart are dated 17 July and in September 1572, and 6 and 26 July 1585 respectively.³⁰ A charter by the treasurer of Orkney in 1572 and one by the subchantor

²⁷ Rentale Dunkeldense, 322-329.

²⁸ Register of the Great Seal, iv, 241.

²⁹ Register of Abbreviates of Feu Charters of Kirklands, ii, ff.294, 299 (S.R.O.).

³⁰ Ibid., ii, ff.147-8; Register of the Great Seal, v, 836.

in 1573/4 show a time-lag of about a month in each case suggesting non-residence on the part of the canons who, no longer having religious duties at the cathedral probably spent much time in the south.³¹ The most frequent examples of this double-dating occur during the commendatorships of Arbroath abbey by lord John Hamilton and, in the early 1580s, by Esme Stewart who could not have visited the abbey very often.³²

An attempt to compile an itinerary for Gavin Hamilton, commendator of Kilwinning, though incomplete, shows that even in the late 1550s, when he granted over 80 feu charters of the abbey lands, he spent much of his time on the bench in the Court of Session, in parliament, on diplomatic business and at such places as Hamilton, Kinneil, Stirling and on his personal estate at Raploch. On 20 February 1556/7, for instance, a charter was granted in his name at Kilwinning when he was actually present in the Court of Session.³³ In 1568 a contract concerning the teinds of Dunlop was drawn up by the commendator, who was then abroad, and Cunningham of Aiket; the former signed the document at Dieppe on 10 August and Cunningham, at Kilwinning, on 1 September.³⁴ In the following year he gave a tack of the teinds of Stewarton to the parishioners; he himself signed it at Raploch on 28 July and the convent of Kilwinning on 9 August.³⁵ A similar tack

31 Register of the Great Seal, iv, 2389, 2207.

32 Ibid., iv, 2788, 2846, v, 348, 453, 454, 455, 923, 956; Laing Charters, 1005; Register of Abbreviates of Feu Charters of Kirklands, ii, 179.

33 Register of the Great Seal, v, 832; Register of Acts and Decrees, xiv, f.92.

34 Register of Deeds, x, f.85.

35 Ibid., x, f.122v.

was subscribed by the commendator and convent on the 1 and 9 September respectively, Hamilton again being at Raploch.³⁶ He was, on the whole, an absentee landlord although he did have a house in Irvine where he transacted business on 4 October 1561.³⁷

All this suggests that, as far as the superiors were concerned, the administration of their kirklands was something which they discussed with their chapters and officers at some stage and which they then left to the bailie, chamberlain and others who were 'on the spot'.

Nevertheless, we occasionally find kirkmen undertaking personally what might be called estate-management. One of the few surviving rentals belonging to an individual tenant is that which Gavin Hamilton granted to Gilbert Swan, tenant on the barony of Beith; there is reason to believe that the document is holograph.³⁸ Abbot Donald Campbell of Coupar Angus occasionally acted as arbiter in cases concerning boundaries and once gave a decision in a case of disputed 'kyndenness'.³⁹ Bishop George Brown of Dunkeld is said to have gone round his diocese settling quarrels and attending to the requests of the tenants.⁴⁰ He also entered into litigation over lands which properly belonged to the bishopric but were being withheld by local lairds. This, however, was the kind of business which was guaranteed to cause even the most disinterested landlord to act personally. We learn from the accounts of the chamberlain of Kelso that in 1556 James

³⁶ Register of Deeds, x, f.120v.

³⁷ Ibid., iv, f.390.

³⁸ Miscellaneous Ecclesiastical Records in S.R.O.: CH 8/12.

³⁹ Register of Cupar Abbey, ii, 130 (Grampian Club).

⁴⁰ Rentale Dunkeldense, 306-7.

Stewart, the commendator, was at Lesmahago when the accounts for that part of the regality were being rendered.⁴¹ In 1527 the abbot of Melrose visited Kylesmure, the outlying part of his regality:⁴² an entry in the account book reads, 'Item, to Jok Rychard the 10 day of Februar to Melros with the abbots graitht he left in Maklyng at hes last departying. 5s.' The abbot spent the following Christmas at Mauchline; in January 10s. was paid 'to Jame Welson for turnying of plats for the abbots cumyn agayn Yowyll, 14 dais with an sarwand,' though his visit may not have been primarily to do business!

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Who was in charge of the day to day running of an ecclesiastical estate and who were the officers whose activities constituted the tenants' ordinary contact with the landlord?

In the everyday administration of a regality the appointment of a nobleman or laird to the offices of bailie, chamberlain or justiciar created a measure of continuous lay participation in the temporal affairs of the church. This might work very well where the lay official could be trusted to act in the interests of the superior or where the two were kinsmen, but there was always the danger of an officer's using his authority in his own interests.

The relations of a lord of regality with his bailie held most dangers in this respect. Resentment of the authority of a hereditary

⁴¹ Liber de Calchou, i, 479.

⁴² Account Book of Melrose Abbey (1527) Morton Papers: GD 150/1448 f.4, 7.

bailie became more marked as monastic lands came to be regarded as pieces of private property by lay commendators and business-minded ecclesiastics. For a bailie whose lands adjoined the regality or who was himself a tenant on it, as in the case of Learmonth of Dairsie, bailie of the archbishopric of St Andrews, a grant of bailiary meant the strengthening of his hand over his own tenants and an extension of his authority to include those of his neighbours. People occasionally complained that bailies and their deutes pursued private quarrels under cover of officialdom.⁴³ A dangerous loop-hole was left in the terms of the grant of the bailiary of the bishopric of Aberdeen to the earl of Huntly which gave him the service of all the bishop's tenants 'in oisting bayth within and without the realme, to serve him and his heirs als in thair awin propir actionis and causis perpetually, and na utheris except us.'⁴⁴ When the feud between Alexander Cunningham the post-Reformation commendator of Kilwinning abbey and the bailie, the earl of Eglinton, was at its height in 1579 it was stated in the Privy Council that the commendator 'for sindrie ressonabill caussis baith of deidlie feid and utheris, hes obtenit his hailt tennentis and servandis exemit fra the said Erllis jurisdiction in all civile and criminale caussis.'⁴⁵ We can imagine the predicament of the tenants who were faced with the rival demands of two local authorities. Earlier in the century abbot Alexander Hamilton of Kilwinning had refused for almost two years to recognise the earl's father as hereditary bailie during

⁴³ Register of the Privy Council, iii, 144.

⁴⁴ Register of the Great Seal, iv, 763.

⁴⁵ Register of the Privy Council, iii, 144-5.

which time the latter threatened to take the case to the Courts.⁴⁶

A solution to this problem lay in the appointment to the bailiary of a kinsman or trusted friend of the lord of the regality. Thus the earl of Huntly became bailie of the bishopric of Aberdeen in 1549,⁴⁷ the earl of Argyll of Brechin in 1566,⁴⁸ the earl of Sutherland of Caithness in 1580/1,⁴⁹ Colville of Cleish of Culross in 1568, Chisholm of Cromlix of Dunblane in 1565,⁵⁰ Lord Boyd of the barony of Glasgow in 1573/4⁵¹ and Alexander Hume of the nunnery lands of North Berwick in 1568/9.⁵² Initiative may have come from the grantee's side in the appointment of Durie of Durie as bailie of the lands north of the Forth belonging to Dunfermline abbey in 1580⁵³ and of Sir John Bellenden of Auchnoull, the justice-clerk, as bailie of Holyrood abbey's baronies of Kerse and Ogilface in 1565⁵⁴ since both these men were from the families of earlier abbots of these houses. On the other hand, it may have been felt that they could be trusted to act in sympathy with the respective commendators from whom they had feued land. The commendator of Holyrood, Lord Robert Stewart, in appointing Bellenden to the bailiary of Kerse and Ogilface cancelled a previous grant to Bruce of Airth, a local laird, excusing this by saying, 'it is maist

46 Eglinton Muniments: GD 3/2/80/1, GD 3/2/80/18, GD 3/2/80/17, GD 3/2/80/19.

47 Register of the Great Seal, iv, 763.

48 Ibid., iv, 1764.

49 Ibid., v, 277.

50 Ibid., iv, 2910.

51 Ibid., iv, 2407.

52 Ibid., iv, 1918.

53 Ibid., v, 584.

54 Ibid., iv, 1985.

expedient that the haill office priviledge and freedome of oure said regaltie be exercisit and usit be ane man that will employ himself alluterlie for the conservatioun ... of oure said regality and tenentis duelland thairupoun...' There were obvious benefits to be derived from putting the affairs of one's more distant estates in the hands of one of the country's top lawyers. When the bailiary of Lindores was given to David Barclay of Cullairny in 1563/4 it was noted that his uncle and father had earlier served the monastery.⁵⁵ Political pressure, not to mention fear of losing his living, induced bishop Patrick Hepburn to grant the bailiary of the regality of Spynie to the regent Moray in April 1568 and to make him keeper of the castle of Spynie, reserving the use of it to himself. The transaction amounted, in effect, to a kind of perpetual fine of £200 - the bailie's fee - on the bishop for his recent political misdeeds.⁵⁶ Hepburn, as commendator of Scone, made Patrick, lord Ruthven, bailie of the abbey in 1569⁵⁷ and thereafter the Ruthvens built up for themselves an increasingly effective control of the monastery's affairs which became a commendatorship in 1580. Accounts of the chamberlain of Scone, which begin about 1569, show Ruthven's hand in the administration of the abbey before the bishop's death in 1573.⁵⁸

Grants of bailiary and of other offices often include the reservation to the superior of certain executive powers and make his

⁵⁵ Register of the Great Seal, iv, 1787.

⁵⁶ Ibid., iv, 1907.

⁵⁷ Ibid., iv, 1894.

⁵⁸ Yule Collection: GD 90/2/10 (S.R.O.).

'advice' a necessary preliminary in some areas of administration. Although Learmonth of Dairsie, bailie of the archbishop of St Andrews, had, in addition, the office of coroner of his justice courts, he was inhibited from actually holding a justice-aire without the archbishop's licence;⁵⁹ the Learmonths took an oath of fidelity to the archbishop on entering office. The earl of Arran, as bailie and justiciar of the archbishopric of Glasgow in the 1540s, was not permitted to appoint or remove officers without the archbishop's consent.⁶⁰ The earl of Morton who was made bailie of Dunfermline abbey's lands in Midlothian in 1574 was debarred from appointing ad hoc bailies to give sasine of lands in that part of the regality.⁶¹ When the earl of Huntly received his charter of the bailiary of the bishopric of Aberdeen in 1549 he had already subscribed a bond of maintenance to the bishop and had promised 'to mantene the Christiane fayth within the said dyosy and libertie of the kirk', while the bishop had promised to safeguard the bailie's rights when he granted any feus or long leases.

Arrangements for payment of the bailie's fee might bring him, or, at least, his officers into direct contact with the regality tenants. If he were paid an outright sum in cash he would most likely receive this from the chamberlain when the latter made up his accounts. There were ways, however, by which the collection of his salary could be made the responsibility of the bailie himself. Some were paid from the teinds which it was part of their duty to collect. Wallace of Craigie,

59 Register of the Great Seal, v, 382.

60 Registrum Episcopatus Glasguensis, 1, no. 526 (Bannatyne Club).

61 Register of the Great Seal, iv, 2305.

as bailie of the barony of Monkton on behalf of the abbot of Paisley, received as his salary 6 chalders, 15 bolls of meal from the teinds of the abbey.⁶² This arrangement enabled the bailie to make sure that his salary was 'creamed off' either by his officers or from the tacksmen who, if he was a local laird, might be his relatives or even tenants. Frequently, the bailie was paid from the 'readiest fermes' of certain lands, an arrangement would make him a zealous rent-collector. In the period which we are considering some bailies and other officers were paid from the feu-duties of lands which they themselves held in feu-ferme; in this way the earl of Argyll was paid from the feu-duties of the lands of Farnwall which he held from the bishop of Brechin⁶³ and Kerr of Cessford from lands which he held from the commendator of Kelso.⁶⁴ Lord Boyd, as bailie of the barony of Glasgow, was paid partly from rents and partly from casualties of the archbishop's courts.⁶⁵ The earl of Eglinton, as bailie of Kilwinning abbey, drew his salary from the teinds of some of 'his propir landis' including the Mains of Eglinton⁶⁶ and the earl of Cassillis as bailie of Crossraguel from the victual dues of lands in his own possession.⁶⁷

A number of bailiaries were hereditary by the sixteenth century but there were still some which changed hands in this period; in 1568 the earl of Argyll resigned the bailiary of Culross in favour of

62 G. Chalmers, Caledonia, vi, 512.

63 Register of the Great Seal, iv, 1764.

64 Ibid., iv, 1966.

65 Ibid., iv, 2402.

66 Sir W. Fraser, Memorials of the Montgomeries, ii, 130.

67 Charters of Crossraguel Abbey, i, 135.

Robert Colville of Cleish.⁶⁸ Some grants are in the form of feu charters which made the office hereditary in the family of the grantee. Only in a few cases is there an element of contract in a grant of bailliary though some appointments may have been made in return for 'sums of money' or past services. It is possible, however, that obligations and contracts were drawn up as separate documents at the time of an appointment. The obligation signed by Hugh Campbell of Loudoun at the time of his appointment as bailie of the barony of Kylesmure is found in the Liber de Melros. Campbell bound himself to take the part of the abbey in all controversies, to administer justice among the tenants, to oversee the 'inputting and outputting' of tenants. If he is asked to do so he must 'red and devoid any stedyng' in spite of any 'freindship' or 'manrent' between himself and the tenant in question. He must not raise an action against a tenant or increase the amount of legal casualties or other dues without licence from the abbot. The bailie was required to pledge his rents, lands, moveables and immoveables for the honouring of the obligation.⁶⁹

A good working relationship between the bishop, abbot or commendator and the chamberlain, the chief financial officer of the regality, was extremely important. In earlier times this office had been held by an ecclesiastic, often by a member of the convent, but by the early sixteenth century it was passing more and more into the hands

⁶⁸ Register of the Great Seal, iv, 1885.

⁶⁹ Liber de Melros, no. 598.

of laymen although those who handled the internal financial affairs of a monastery, such as the elimosinar and the master of the petty commons, were frequently members of the community at the Reformation and in 1571 there is mention of dene William Ruthven, chamberlain of Inchaffray.⁷⁰ Bishop George Brown of Dunkeld, in the early years of the sixteenth century, appointed James Fenton, the precentor, chamberlain of the bishopric 'owing to his business ability.'⁷¹ In 1541 Cardinal Betoun, as archbishop of St Andrews, combined the office of chamberlain, which had previously been held by an ecclesiastic, with that of graniter, then held by Archibald Betoun of Capildra, thus concentrating financial responsibility in the hands of his kinsman. The arrangement lasted for about two years after which the offices were again divided and given to clerics.⁷² At Arbroath abbey James Ogilvy of Balfour, a kinsman of the bailie, Lord Ogilvy, was chamberlain.⁷³ There were two lay chamberlains of Dunfermline abbey in the mid-sixteenth century, Alan Coutts and Thomas Toscheauch.⁷⁴ In 1554 the commendator of Coldingham sued the recently deposed chamberlain of the priory, Hercules Barclay, who had refused to hand over the chamberlain's account books, the account books of his predecessors, Mr Thomas Barclay, parson of Navay, and Mr Patrick Hume, also the rental books and teind books.⁷⁵ In 1566 bishop Patrick Hepburn

70 Edinburgh Testaments: CC 8/8/3 f.121 (S.R.O.).

71 Rentale Dunkeldense, 322.

72 Rentale Sancti Andree, xxxi.

73 Ibid., 166.

74 Register of the Great Seal, v, 898, v, 342.

75 Register of Acts and Decrees, x, f.309.

raised an action against the chamberlain of Scone, Alexander Blair of Freirtoun, who was withholding money and ornaments belonging to the monastery.⁷⁶

In December 1555 Gavin Hamilton, commendator of Kilwinning, appointed as his chamberlain Robert Hamilton, younger of Dalserf. The terms of the appointment, which was in the form of a contract, give a good idea of the duties and responsibilities of the chamberlain. He uplifted, through his officers, the mails, fruits, duties and kirksilver of the abbey, pursuing in the bailie court, and in the king's courts if necessary, those who refused to pay their dues. On his own expenses he arranged for collection of all payments and for bringing in of the victual rents 'to the place of Kilwinning' out of which he had, first of all, to 'supply the convent therewith and all other necessaries', and pay the expenses of the commendator's household if they should happen to be there. He was required to present an account to the commendator at the following Allhallowmas and to render a complete account for the first year of his office, at least by the following Easter. His fee consisted of 120 merks, 1 chalder of meal, 24 bolls of oats and 20 stones of cheese. If he could prove that land had been 'unlaboured' and 'unsown' this was to be 'allowed' in his account. He was also allowed certain expenses for legal actions and for threshing corn.⁷⁷

Bailies, justiciars and chamberlains carried on their work

⁷⁶ Register of Acts and Decrees, xxxvi, f.408.

⁷⁷ Register of Deeds, ii, f.6v.

through sergeants and officers who, in a number of cases, were appointed by the lord of regality and were the men who actually collected the rents and dues from the tenants. The senior officials frequently left the work to deputies but there is evidence that the chamberlains, in particular, supervised and even kept the accounts themselves. The memoranda which Alan Coutts inserted in the accounts of Dunfermline abbey for the information of central government officials suggest that he had a personal knowledge of the financial administration. Robert Hamilton of Dalserf scribbled notes in the margins of his account book and on at least one occasion personally confronted a tenant who had deforced one of the bailie's officers.⁷⁸ John Weir, chamberlain of Lesmahago, though he could not write but subscribed the accounts with the help of a notary,⁷⁹ probably supervised the collection of the rents.

Before leaving the ecclesiastical landlords and those who supervised the management of their estates we must take account of the monastic convents without whose consent there could be no alienation of the property and who were affected, more directly than were the canons of the cathedrals, by the changing character of ecclesiastical landownership. The monks might appear to have been reasonably secure in the possession of their chambers and yards and individual 'portions' but there were undercurrents in the situation which gave rise to feelings of apprehension and insecurity. In addition, perhaps on

⁷⁸ Register of Acts and Decreets, xx, f.345v.

⁷⁹ Liber de Calchou, i, 483.

account of this, relations between the heads of many monastic houses and their convents was becoming strained by the mid-sixteenth century when the attempts of both parties to maintain and make the most of their respective rights in the property sometimes led to disputes.

In the first place, it is possible that the 'portions' arrangement, since it was not inherent in the constitution of a monastic community, so to speak, but was a later development, may have had about it a 'customary' rather than a 'statutory' character; this could still have been true even though the portion had come to acquire the nature of a benefice which might be transferred from one person to another, an entity which was not re-absorbed into the common funds of the monastery on the death of a particular monk.

Secondly, a monk's chamber and yard could not be permanently alienated by him, partly because it usually lay in the precincts and canon law forbade the alienation of the immediately surrounding property of a monastery, and partly because it was his only during his lifetime for his use as a member of the community and was not to be regarded as personal property. Abbots, on the other hand, who sometimes had houses outside the precincts or in a neighbouring town might feu these, with the convent's consent, either to a friend for a grassum or, as some did, to their own families for whom it then became personal, heritable property. A monk could dispoise only his 'life interest' in his chamber and yard; leases of yards, so far as I have come across them, were granted by the abbot with the convent's consent. This is illustrated in the case of two Kilwinning monks, John Culper, subprior, and Alan Steyne. The former dispoised all his rights in his

chamber and yard to his brother Alexander, a local man, who later obtained a charter of it from the commendator. The subprior also resigned his rights to land in the parish in his brother's favour and these, too, were feued to the latter by the commendator and convent.⁸⁰ Dene Alan Steyne disponed to 'his beloved servant James Tynklar ... all rights which he had to his chamber and yard', but, although he left all his moveable goods to this servant in his testament, Tynklar had to obtain a lease from the commendator after the monk's death in order to hold on to the yard which he was then occupying.⁸¹ In 1541 abbot Donald Campbell and the convent of Coupar Angus abbey leased the yard of dene Thomas Locmalony to John Brown; the terms of the lease suggest that the 10 merks which Brown paid for the use of the yard went to the monastery and all that dene Thomas got out of it was someone to do odd jobs for him.⁸² While leases of yards may have brought the possessor a better deal than this on occasions it seems to have been the case that the abbot, with the formal consent of the monks, had the last word on how these small pieces of property, set aside for the benefit of the individual members of the community, were to be disposed.

A transaction at Newbattle in 1554 not only illustrates the point under discussion but reveals how, on occasion, monks, who were supposed to have renounced the world and its goods, helped out needy relatives who were still in it. Dene John Liddell provided the tocher of his niece who was about to marry his own servant, Robert Dickson. In

80 Eglinton Muniments: GD 3/2/89/1, GD 3/2/86/1.

81 Ibid., GD 3/2/95/1, GD 3/2/95/2.

82 Register of Cupar Abbey, ii, 209.

addition to his grey horse and a few cows dene John gave the bridegroom 'his full power and ... gudewill to the said Robert ... to intronett with the fructis growand in his west yaird within the abbay of Newbottle assignit to him as use is', with liberty to occupy and cultivate it.⁸³ A few years later, after dene John had died, the monks of Newbattle complained that the commendator, Mark Kerr, had failed to give his vacant yard to dene George Symson who was without one, claiming that it was customary for vacancies to be filled in this way. No matter how customary it was the monks evidently could not arrange the business without the commendator's concurrence; they were probably finding it difficult to dislodge Robert Dickson and his wife who were continuing to occupy the property after heruncle's death.⁸⁴

It is evident that, while the legal theory was that the abbot and convent were partners in the property, the latter were often dependent on the goodwill of the superior for continued and prompt payment of their portions, and, of course, on that of the chamberlain who was responsible for seeing that they were actually supplied. In the ten years following the Reformation, when the personal connection between the head of a monastery and the community must often have been very tenuous, monks from Culross, Holyrood, Cambuskenneth, Inchmahome, Newbattle, Tongland, Glenluce and Dunfermline and nuns from Sciennes, Haddington, Eccles, Coldstream, Manuel and Elcho were suing their superiors for arrears of portion and for debarring them from the use

83 Protocol Book of Thomas Stevin: B 30/1/5 f.93v (S.R.O.).

84 Register of Acts and Decrees, xxxii, f.386v.

of living accommodation in the precincts.⁸⁵ In all fairness to the superiors, it must be admitted that although they were ultimately responsible the fault here may often have lain with intermediaries to whom they left their book-keeping or with the tacksmen and feuars of lands from which the portions were uplifted. In stating their case some of the pursuers referred to contracts regarding provisions drawn up between themselves and the superiors in the immediately pre-Reformation period.⁸⁶ These contracts may be regarded either as evidence of the initiative of the convents in attempting to clarify their position and put it on a legal basis, or as a form of blackmail on the part of the commendators who, in bribing the monks with a measure of security, hoped to gain their co-operation in extensive alienation of the property.

In October 1553 the abbot and convent of Coupar Angus reached an agreement whereby a bursar, chosen from their number, was to receive annually a proportion of the rents from the barony of Coupar to be divided among the brethren and their servants. This bid to ensure the convent's share of the property was couched in 'constitutional language; 'as we have resolved together, God being our guide, to lead a regular life, and to order our manners according to the reformers of the Cistercian order; and specially that all the fruits, income and provision of the monastery of Coupar be possessed and used in common

85 Register of Acts and Decrees, xxvi, f.382v; xxvii, ff.280, 374v; xxviii, f.355; xxix, ff.186, 452; xxx, ff.118v, 364, 374; xxxi, f.373; xxxii, ff.99, 386; xxxiv, ff.39, 114, 153v; xxxvi, f.102v.

86 Ibid.

by us, Donald, abbot, and convent; so that we, Donald, the abbot, shall faithfully give and appoint a proportion of all the produce, once in the year to four or six of our brethren to be chosen by us and the convent ...⁸⁷

The letters granted by James Stewart to the convent of Melrose in February 1555/6 were said to assign and confirm to them - as though recognising an existing arrangement - money and victual from the tenants of certain lands on the lordship of Melrose.⁸⁸ In comparatively early times certain lands had been set aside for the provision of convents. The canons of Holyrood were provided from the teind wheat of Niddrie Marshall, Craigmillar, Gilmerton, Mortonhall, Nether Liberton, Priestfield and Over and Nether St Leonards and from other dues which came from elsewhere in the regality.⁸⁹ The lands of Lyandcross, Scryvverlands Braidlie and Monksdaillie in Renfrewshire belonged to the convent of Kilwinning.⁹⁰ The Ward mill of Arbroath abbey pertained to the convent of that house; in 1583 David Black, member of the convent of Arbroath and, by then, minister at Kirriemure, signed an acquittance to Lord Ogilvy for his feu-duty of the Ward mill.⁹¹ The monks might well feel anxious about the commendator's plans for leasing or feuing land from which their portions derived. In 1562 the canons of Inchaffray raised an action against lord Drummond for failure to pay to them a certain allowance of victual in the terms

87 Register of Cupar Abbey, ii, 109.

88 Melrose Regality Records, iii, 192.

89 Register of Acts and Decrees, xxviii, f.355 et sequ.

90 Eglinton Muniments: GD 3/1361 f.9.

91 Airlie Muniments: GD 16/29/39/3 (S.R.O.).

of a lease granted to him.⁹²

Where no contract is cited by the pursuers in these cases, the only 'come-back' which a monk or a nun had was the statement that he or she was a 'professit' member of the community and had resided in the monastery, these conditions constituting the customary right to a portion. In circumstances like these a monastic convent would think twice about obstructing the policy of a commendator over the alienation of land. Even the elderly prior of Melrose, Thomas Mersar, who became ill during the struggle with James Stewart, withdrew his opposition on behalf of his colleagues after the commendator had threatened to deprive them of their living, 'throcht dreddour of greter inconvenientis to be done be my Lord ...'⁹³ In the 1550s the monks of Newbattle sometimes acted on behalf of the last pre-Reformation 'regular' abbot James Haswell;⁹⁴ the cellarer, Thomas Reid, once received the statement of a tenant, who was acting as tutor to a young relative, with regard to the latter's property; James Harway, another member of the community, went to the house of a tenant in Maistertoun to register a protest over the non-payment of teinds; the sub-prior, Andrew Langland, acting as the abbot's 'commissioner' absolved a tenant and his wife from excommunication. Nevertheless, this working partnership broke down in 1552 when the monks extracted an obligation from James Achesoun, burgess of Edinburgh, to whom the abbot had given a lease of certain acres near Musselburgh and from whom he had been

92 Register of Acts and Decrees, xxv, f.198.

93 Melrose Regality Records, iii, 219.

94 Protocol Book of Thomas Stevin: B 30/1/5, ff.31, 37, 47.

buying goods 'on the house'! Achesoun promised not to 'furniss ane reverend fader in God, James, abbot of the said abbay with ony merchandis or guidis without thair consent except wine, ceir, irn, salmond and abulzementis for the abbot's body, nor ony utheris in his name and that he (Achesoun) sall receive thankful payment of the sowme of £1000' owing to him from the abbot and convent, 'in greit and small sowmes as thai pleis.' The burgess also promised not to sub-let his land, leased from the abbey, which he was to lose if he failed to keep this obligation.⁹⁵

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From this brief outline it may be gathered that a number of non-ecclesiastical factors operated in the administration of kirklands, particularly in the period when feuing was at its height. As we have seen, a considerable number of the landlords were not churchmen at all but laymen, whose main interests were secular and material, who had an eye for profit and for the extension of the political and social influence of their families. Thus political change often brought a change of landlord and of those officials who came between him and the tenants. The proprietary attitude of many churchmen matched those of the lay commendators. Their tendency to regard the regality as a piece of personal property caused friction with a hereditary bailie or other official who might use his administrative capacity to consolidate his own influence in the locality. On the other hand, the initiative

95 Protocol Book of Thomas Stevin: B 30/1/5, f.67.

of officials who were the kinsmen or friends of the lord of regality would be resented by tenants, some of whom might be substantial lairds or even nobles.

On the whole, however, the machinery of 'estate management' continued to operate throughout this period of political and religious disturbance. Whereas revenue derived from the 'spirituality' of the church would appear to have declined in many places before the Reformation, with widespread non-payment of 'corsepresandis' and 'pasche fynes' and a flood of litigation over the failure to pay teinds, there is little indication of serious failure on the part of tenants to pay rents and dues for the lands which they occupied, though bishop Robert Crichton of Dunkeld feued land in 1561 'quia tribus annis elapsis nihil proficuorum sui episcopatus pre ingratitudine et inobedientia tenentium habere potuerat'.

'...they say rich tenants make a rich master, for they ought, being the image of God to have even the part of their labour, as the master should.'

(James, 6th lord Ogilvy, to his grandson, 1606.)⁹⁶

It is time to look at the tenants' side of the picture and to try to assess, from available, relevant source material, how much continuity and security of tenure there was among them, since a change

⁹⁶ Airlie Muniments: GD 16/34/6.

in the status of many tenants was one of the direct results of the feuing of kirklands. There are certain limitations on research into this question. In the first place, one can take account only of tenants who appear in the records as having a recognised form of tenure, of some kind, so that cottars and labourers do not figure very largely in the following survey, on the whole, though the cottars do come into the picture in some areas. In any case, the status of husbandmen and bigger tenants would be reflected in the circumstances of those under them. Secondly, although the material for the study of ecclesiastical lands - unlike that for secular holdings - is considerable and varied, it is not always of the kind from which a pattern of tenancy can be worked out. One needs a register of leases, covering a fairly long period, or a register which records the entry of tenants. Ideally, for the purposes of research, such a register would be arranged under territorial names showing the changes of tenancy under each; this was the method used by the compiler of the Paisley rental - bless him! - almost, one might think, with future historical researchers in mind. In most cases, however, one has to chase through the pages of a register in order to compile a list of tenants for one particular territory; this has had to be done in the case of the registers of the archbishopric of Glasgow and the abbeys of Coupar Angus and Arbroath. Though somewhat laborious, this method has the attractions of a jig-saw puzzle.

The following survey, then, has been confined to areas for which there is suitable material, namely, the barony of Glasgow, Paisley abbey's lands in Renfrewshire and Kyle, Arbroath abbey's territories

in Forfar and Kincardine and the lands of Coupar Angus abbey. In addition, there are places for which we have information on leases covering short periods, which, at least, indicates the average duration of a lease and the kind of tenants to whom the land was granted; this applies to the bishopric of Aberdeen and to Dunfermline abbey. In the case of Newbattle, Kilwinning and Melrose abbeys we are fortunate in having indications, and at times statements, of the customary policy of land-holding and tenancy on these regalities. We shall look, first of all, at the types of tenure on ecclesiastical lands generally and then at the pattern on the regalities mentioned above.

At this point, the designation 'kindly tenant' must be taken account of. This description was applied not only to the humble cultivators of the soil but to lairds whose forbears had occupied church land for several generations. The term was not so much a clearly-defined form of tenure as a claim to de facto hereditary possession because one's kin had already held the land, and was applied to a tenant who might be lease-holder, rentaller or even tacksman. A kindly tenant expected to be rentalled, or to be given the lease on the death of his father or other kinsman to whom he was heir. The following instances show that the claim to kindly tenancy was distinct from the form of tenure by which the land was held. Mr Robert Pitcairn, as commissioner for the abbot of Dunfermline, granted a lease of the lands of Balmule to Marion Telfer, then under age, as heir to her father who had, in turn, been heir to his uncle, the grant being 'in kindly tenancy'.⁹⁷ An entry in Melrose Regality Records

⁹⁷ Register of Tacks of Dunfermline Abbey, CH 6/3/1, f.30 (S.R.O.).

for 1574 reads, 'rental granted to George Campbell of Cessnock who and his predecessors have been kindly tenants in the lands underwritten and who is therefore admitted as rentaller and tenant ...',⁹⁸ In 1564 the commendator of Melrose, Michael Balfour, understanding that Crawford of Leffnories is 'ane auld and kyndlie and lauchfull tennent' of certain lands in Kylesmure, agrees to set them to him 'in rentall sufficientlie in oure rentale buikis of Melross.'⁹⁹ There may, indeed, have been 'tenants-at-will' who were relying on the previous occupancy of their forbears as the justification of their own possession of land but, on the whole, the 'kindly tenants' who appeared in court cases or complained to their landlords against eviction could produce, or were required to produce, written evidence of their right to occupation, in the form of lease or rental. Kindly occupancy without a legal form of tenure could only have been recognised as a basis of the right to possession in a country where the common law was very strong, but that was not the case in Scotland. The prebendaries of Lincluden might remonstrate with the provost, 'My Lord, it is bayth by Goddis law and mannis to sett takkis or to few ony mannis kyndlie stedying or landis of thame quhilkis hais bene in possessioun sum 40 sum 50 yeris and utheris past memor of man till ony othir gentill man quha nevir had kyndnes thairto nor gudwill ... of the possessouris ...',¹⁰⁰ yet according to Sir James Balfour tenants were safe from eviction in these circumstances only if they could

⁹⁸ Melrose Regality Records, iii, 321.

⁹⁹ Morton Papers: GD 150 Box 54 (24 July 1564).

¹⁰⁰ W. McDowall, Chronicles of Lincluden, 137.

prove 'by writ and not by witness' that they had a rental of the land or a tack which had not yet run out.¹⁰¹

There were ways of terminating 'kindly tenancy'. The 'kindness' could be sold or assigned by the possessor to another person, he himself keeping the liferent if he were a rentaller or had a tack which had still a few years to run. Sometimes the assignation of kindness was followed immediately by the recipient's entry as tenant. It is stated in the Paisley rental that 'Allexander Neill hais gyffyne his kyndness of the tane half part of his malyng to Jekyne Osborne and is tane tenand to the sam be our master the abbot.'¹⁰² On the other hand, a landlord could buy the kindness of a particular tenant, either with his concurrence or in order to evict him.¹⁰³

The most common form of tenure on church lands would appear to have been the tack which occurs all over the country. As we shall see, shortly, the duration of tacks might vary within a regality from 3, or 5 years to 19 years and even for life. Some tacks - especially those granted by the abbots of Coupar Angus - carried a considerable amount of obligations and duties in addition to the tack duty, which gives to them the character of a contract between landlord and tenant; at Coupar Angus tacks might be forfeited for a variety of reasons, ranging from a failure to keep down weeds to the holding of heretical opinions. While land was normally let to those who cultivated it or to those who lived off the rents paid to them by the

101 Balfour's Practicks, i, 459 (Stair Society).

102 J.C. Lees, The Abbey of Paisley, Appendix, clxx, clxix.

103 Register of Deeds, iv, f.155.

[illegible]

cultivators, leases were also granted, throughout the country, to craftsmen and others to sustain them while they carried on their trade or occupation such as those of smith, miller, brewer, tailor, wright and forester. These people must have formed a distinct group in a community, distinguishable from the husbandmen and farmers. Instead of having numerous obligations written into their leases, the tenants of Paisley abbey held their lands under the conditions laid down by abbot Robert Schaw early in the sixteenth century,¹⁰⁴ the leases themselves containing only details of payments and commutations.

Leases, whatever their duration, and while they may have been granted 'in kindly tenancy' were subject to renewal. A more secure form of tenure, largely because it was granted for life in most cases, was that of rentalling. Moreover, in practice, rentals were normally granted to the heir or other kinsman of the last possessor. This must have given some incentive and a measure of 'pride of possession' to the holder who knew that he would be able to enjoy the fruit of his labours for his own lifetime. Provided he consistently paid his rent, a rentaller was fairly secure in his possession and, in some ways, resembled the English copyholder. It would appear from surviving information on the subject that continuity of possession by families was greatest where rentalling was the common method of tenure. There is a suggestion that few conditions were attached to the holding of a rental and that the payment of the rent was sufficient guarantee against eviction.

104 J.C. Lees, The Abbey of Paisley, 171.

Opposite: Rentals granted to Robert Young, maltman, and others by the prior of the Carmelite Friary at Linlithgow.
(S.R.O. REF.: Linlithgow Sheriff Court Book, SC 41/1/1)

Above: The Rental of Gilbert Swan, tenant in the barony of
Beith, granted by Gavin, Commendator of Kilwinning,
8 March 1552/3. (SRO Ref.: CH 8/12)

Lease-holders and rentallers received, on their enrolment, a copy of the entry in the landlord's rental book or register of leases and were expected to produce it in their defence if necessary. On one occasion, a rentaller was asked to produce, as far as he could, the rentals granted by the landlord to his predecessors.¹⁰⁵ Letters of tack of kirklands abound in private muniments and references to them appear throughout registers. On the opposite page there is reproduced, actual size, the 'rental' granted by Gavin Hamilton, commendator of Kilwinning, to Gilbert Swan, a tenant in the barony of Beith. The document, now among the miscellaneous ecclesiastical papers in the Scottish Record Office, is written on paper and may be holograph. The note at the foot, in answer to the commendator's memorandum about the payment of wild fowl, is in the same handwriting as the date which is inserted after the word 'At' and was revealed under the ultra-violet lamp; the document is dated at Kilwinning on 8 March 1552/3, implying that it was written out by the commendator in advance and sent to the abbey for the details of payments to be filled in. Gilbert Swan was a tenant in Bogside in 1563¹⁰⁶ but when the lands were feued to James Cunningham in 1574¹⁰⁷ they were described as formerly pertaining to Swan. He may have assigned his rights to Cunningham. His rental is an interesting surviving example of the kind of document of which there must have been hundreds in Scotland at that time.

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105 Register of Deeds, i, f.431v.

106 Register of the Great Seal, iv, 2633.

107 Ibid., iv, 2489.

The traditional image of the Scottish peasants and farmers holding their land on short leases, daily haunted by the spectre of eviction, can probably be traced to what John Major had to say on the subject; after all, it is difficult to find an earlier writer who talked as much about Scottish rural economy and land-holding. Before criticising him, however, it must be said, in all fairness to him, firstly, that Major was writing early in the sixteenth century (about the 1520s) when security of tenure may have been less widespread than it later became; on the estates of the abbey of Coupar Angus, for instance, continuity of tenure and the length of leases definitely increased towards the middle of the century. Secondly, if the tradition that he was born at Gleghornie, in East Lothian, is correct, Major came from a family who lived on the land of a layman, Lumsden of Ardris, who held these lands from the crown¹⁰⁸ whereas continuity of possession would seem to have been more common among church than among lay tenants. This conclusion, however, is subject to further research among surviving records of non-ecclesiastical lands.

We shall allow Major to speak for himself before examining the situation in particular areas. In his 'Quartus Sententiarum' he wrote:-

'At this point, however, since our discussion is concerned with property and social organisation, I shall raise a debateable question, namely, whether a kingdom is well ordered when its farmers and peasants do not hold their land in perpetuity, on annual payment of the rents due to the owners, and I raise this matter on account of the Scots in

¹⁰⁸ Register of the Great Seal, ii, 402.

Britain. Throughout the realm (of Scotland) tenants are changed at the landlord's whim. I shall discuss the case of one farmer Sortes (who) has land on lease for the space of four or five years and no more. At the expiry of the lease the landlord can evict him - and this, indeed, is what happens in most cases ...¹⁰⁹

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The registers and rental books of Coupar Angus abbey are among the most frequently cited sources in discussions of late medieval Scottish land-holding and social organisation. They certainly comprise a fascinating record of life on an ecclesiastical estate, full of the kind of graphic, human detail which would be a gift to an historical novelist, let alone historian. For the present purpose an analysis has been made of the length of leases and the continuity of possession by families in this area. As published by the Grampian Club, the records fall into two parts; volume 1 covers the period 1464 to 1516 and volume 2 that from 1539 to 1560, leaving a gap of twenty-three years in the middle of the record. This is an unfortunate gap because it was evidently a period of change and transition; the pattern of leases in the second period differs considerably from that in the first.

Altogether I have counted 675 recorded leases from the mid-fifteenth to the mid-sixteenth century. In the earlier period, from 1464 to 1516, the greatest number of leases, 289, were of five years'

109 The Innes Review, 11, 65.

duration. The pattern in this period is as follows:-

<u>Leases on the lands of</u> <u>Coupar Angus abbey</u>	<u>Duration</u>	<u>No. of leases</u>
1464-1516	Life	87
	19 years	1
	15 years	1
	10 years	1
	8 years	1
	7 years	11
	6 years	4
	5 years	289
	4 years	2
	3 years	12
	2 years	6
	1 year	3
		<hr/>
		418
		<hr/>

For a number of reasons it is impossible to give round figures for the number of families who enjoyed continuity of possession on the Coupar lands. The use of patronymics, both in a settled and still fluid form, by inhabitants of this district makes it difficult to tell whether one is following the members of one family or not. Where the same combination of Christian and surname recurs it is impossible to decide whether these refer to the same individual, to relatives or to father and son. It seems safe to say, however, that in the majority of territories on the regality there are signs of continuous occupancy by members of some families.

The pattern in the later period, 1539 to 1560, presents a different picture from that just described:-

to y^e vicar pensionare yearly of y^e summy And in lib^{ty} of y^e d^y & to be
paynt yearly of xx s. to my lord archbishop of sanct andrews and
mair and y^e episcopus ordinat^r of y^e d^y & y^e visitation yearly of y^e summy
xl s. And we forseth y^e said wilzany abbot & o^r successour y^e take &
set of y^e t^{er}me half of our said byll of mair baith psonage & alterage
wth p^{re}sumy till y^e said Robert & his factourz fordid & indurmy y^e
saide fil^z & y^e saill mair and acquit & againt all dedly saill defend
but fraud & gyle In witness of y^e quytte thing til y^e o^r l^{et} of asse-
satione subscrit wth o^r hand our se^l of office is affixit At C^{yt} y^e 10th
day of october y^e 3^{er} of god anⁿ thousand V C xxij y^e 3^{er}.

Be it kindly fel all me be yiz pnt lres the Writz be in pmissiō of god
 abbot of in abbay of Cup Wt hail gent & assent of in quent of y illz
 to have grantit set p for mail lathin And be yz lres of yiz pnt lres
 grantit set p for mail lathin to o Mrebelobit tennand Writz pnt
 not turnbull his spous & an ayz mail gottin or to be gottin lathfully betwix
 may the an aychtment of o grange of abirbothay Wt in pntmen as yai brule
 & joris noll. for all in times of y liffis & in langast liffis of may yai
 payand yfor zaily til the o successour five pounds of and & usual mone
 of Scotland at ij times in in yez Writsunday & mthmes in Wint And for
 y tene ym bollis in p of and & sufficiand Writsall as yai pay noll ym
 caponis & an half sufficiand in p of hors corn as it fallis of in schait
 in ras chendit alay & an fuz of ait forthiz Wt all ariad & caruag
 & bthiz do pnt aycht & Writ of befor And in said Writ & Janet his
 spous & ayz forsaid sall pnt o forsaid aychtment of abirbothay till all
 possible policy in biggin of housis plantatiō of this schis ofare Wt
 y defensour And yai sal bea gud mthoushed & y land fid guld eft
 yair pollis. & do y det to o myll of blaklath as bthiz dois & bea
 in frutit & arle of o collet And the in said abbot & convent bynd &
 obligis the p o successour to bea Writand & defend yis forment affe

<u>Leases on the lands of Coupar Angus abbey</u>	<u>Duration</u>	<u>No. of leases</u>	
1539-1560	Life	150	
	19 years	40	(14 of which were converted into life leases)
	5 years	66	(32 of which were converted into life leases and 2 into 19 year leases)
	1 year	1	(converted into a life lease)
		—	
		257	
		—	

Towards the middle of the century there was a definite trend towards stabilisation of the pattern of land-holding on the regality which may have been the policy of abbot Donald Campbell who was appointed in 1526. It is interesting that the life leases were mostly granted in the 1550s when the abbot granted the bulk of the feu charters. Fourteen tenants had their 19 year tacks converted into liferents at this time, and, more important still, 32 of the 5 year leases were renewed for life, while some of those who received life leases soon afterwards obtained feu charters of their lands.

Increased security in the 1550s did not necessarily mean that the tenants of Coupar Angus, who thus benefited, looked back to the times of their fathers and grandfathers as 'the bad old days'. The preponderance of five-year tacks in the early period did not automatically result in a precarious livelihood and recurrent hardship. Nor did it mean that at the end of his short lease a tenant was 'evicted' with nowhere else to go, as Major seems to suggest; nasty things happened to tenants, of course, but these still do today, even

when the law is ostensibly on their side. Certain factors mitigated the extent of dislocation which one might expect to have resulted from the practice of granting short leases.

Working through the Coupar records one discovers that tenants moved about a good deal, that they exchanged their holdings, were permitted to allocate the portions among themselves and were even given 'transfers'. That this was not done against their will can be seen in the number of agreements made with the landlord and in clauses inserted in leases. In November 1473 the lands of Balgerschac were let to five husbandmen 'ilkane of tham in quantite as tha brukit of before', with the following provision at the end of the tack, 'and gyf tha thynk that tha ma sted tham bettyr in uthir placis tha sal haf our fre licens, warnand half a yer before the terme.'¹¹⁰ In 1468 the Grange of Balbrogy was let for seven years to twenty-one persons, husbandmen and cottars, 'and tha sall divide the settings amongis thamselves.'¹¹¹ In 1475 Agnes Brown, a widow, was granted a lease for her lifetime of the lands of Glentulach to be divided between her two sons after her death 'conjunctly or severely as it lykis thame.'¹¹² In 1474 James Hetoun exchanged part of the lands of Arthurstane for another tenant's portion of Crunanswell.¹¹³ There are frequent instances of tenants leasing portions which were said to have 'formerly' belonged to another person while the latter was still alive and in possession of other

¹¹⁰ Register of Cupar Abbey, 1, 177.

¹¹¹ Ibid., 1, 143.

¹¹² Ibid., 1, 224.

¹¹³ Ibid., 1, 234.

lands, circumstances which again illustrate changes of holdings. The fact is that many tenants held land in different places at the same time so that the expiry of one tack did not necessarily leave them without a livelihood.

There are numerous indications that the estates were managed on fairly humane lines. There was a fund for the poor.¹¹⁴ Widows were normally allowed to keep the remaining years of their husbands' tacks and some, even in the early period, were given liferents. Janet Bowchart, wife of John Hawick in Kinreich Grange, was promised a five-year tack of her husband's land after his death, he then having a life lease.¹¹⁵ The widow of Robert Michell was given a five-year tack of her husband's land to be held by her even if she re-married during that time.¹¹⁶ Walter Baxter's sister was to share his tack 'quhill sche be mareit.'¹¹⁷ It was taken for granted that tenants would add to their holdings; in granting pasture to Gilbert Ray and John Thomson it was laid down 'and eftir as tha haf mare in mailyn thai sal haif mare in sowmys.'¹¹⁸ The restriction of the number of cottars in certain places meant more work and cultivation patches to go round.¹¹⁹ Husbandmen might lose their tacks for failing to provide the cottars with the necessary 'easements' and other requisites.¹²⁰ Cottars were to keep their own kail yard and fuel stacks and were given a share of

114 Register of Cupar Abbey, ii, 228.

115 Ibid., i, 141.

116 Ibid., i, 223.

117 Ibid., i, 280-1.

118 Ibid., i, 228.

119 Ibid., i, 143-4.

120 Ibid., i, xxvii-xxviii.

pasture in some places.¹²¹

There was another side to the picture, of course. Tenants were occasionally given a tack for one year 'on trial';¹²² at least one of these had his converted into a five-year tack and one into a life lease. Some bigger tenants were given the power to introduce and remove sub-tenants which could have had sinister implications.¹²³ Moreover, many tenants paid high grassums for their tacks. John Pery, who held the whole lands of Leducassy, paid £10 to have his nineteen-year tack converted into a life lease.¹²⁴ Robert Cuben paid £8 composition for the lease of 6 acres,¹²⁵ Robert Baxter £80 for a third of Balmyle¹²⁶ and Thomas Jameson £40 for a third of Chapelton.¹²⁷

At the same time, even in the fifteenth and very early sixteenth century tenants of the abbey were having their short-term holdings converted into liferents. In 1466 the abbot promised the eleven husbandmen to whom he leased Carsegrange that they 'shall remain in their habitations as long as he shall remain in the flesh.'¹²⁸

A glimpse of family circumstances is given in an entry, in the Book of Compositions, for 7 April 1545:¹²⁹ 'the samyn day componit with Stevin Portar, at the request and desyre of Gibbe Portar, his fader, being seik, send with Alexander Berny, for ane 5 yeir tak to

121 Register of Cupar Abbey, i, 123, 129.

122 Ibid., i, 227.

123 Ibid., i, 137, 198.

124 Ibid., ii, 225.

125 Ibid., ii, 224.

126 Ibid., ii, 223.

127 Ibid., ii, 222.

128 Ibid., i, 154.

129 Ibid., ii, 225.

Besse Millar his moder, and to himself ... Composition £4, viz. 40s. gressum, and 40s entres silver.' Gilbert Portar, who was here making provision for his widow and son after his death, was the third generation of his family to have an interest in the walkmill of Kethik. His grandfather had had a liferent of the whole mill, granted to him in 1478,¹³⁰ while Gilbert's father had held half of it on five-year leases;¹³¹ Stevin, who inherited it on his father's death, continued to hold it on this basis, having his tacks renewed in 1550 and 1561.¹³² The example of this family illustrates the point that short-term leasing, in itself, did not necessarily mean lack of security.

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The source used for a study of the pattern of leases on the regality of Arbroath is the second volume of the Liber S. Thome de Aberbrothoc, printed by the Bannatyne Club. This record runs from 1329 to 1536 but leases only begin to appear by the mid-fifteenth century. Unfortunately, the abbey registers covering the 1530s and 1540s are not accessible at present, being in the hands of local authorities at Arbroath. This earlier register, however, is valuable as giving the picture before feuing really gained momentum. The pattern of leases which emerges is as follows:-

130 Register of Cupar Abbey, i, 214.

131 Ibid., i, 258.

132 Ibid., ii, 249, 273.

<u>Leases on the lands of</u> <u>Arbroath abbey</u>	<u>Duration</u>	<u>No. of leases</u>
mid-15 century - 1536	Life	127
	19 years	87
	17 years	1
	15 years	1
	11 years	3
	10 years	2
	9 years	4
	7 years	4
	5 years	4
		—
		233
		—

As far as the length of leases was concerned, the pattern of land-holding on Arbroath territory did not undergo any marked change during this period; of the 127 life leases 60, that is almost half, were granted before 1500. If the average length of leases remained the same there was a considerable turnover in the names of tenants between the late fifteenth and early sixteenth century, which suggests less continuity of possession than on the lands of Coupar Angus farther west, though, as in the latter case, tenants probably moved around. The granting of so many life leases makes it difficult to work out how long families remained in particular areas; for example, a lease for life, granted at the beginning of the sixteenth century, may not have been renewed during the period covered by the register. On the Arbroath lands territories were often leased en bloc and were subsequently broken up when a lease expired. The lands of Kepty, which were set to two Arbroath burgesses in 1433, were leased from 1485 onwards to an increasing number of small tenants, holding a few acres each, until the numbers reached 21 in 1528; in every instance leases

of Kepty were for nineteen years.¹³³ In 1485 the combined territories of Punderlaw, Disterland and Hospitalfield were leased to William Scot, burgess of Arbroath, for life, his son John having the lease renewed to him in 1520, this time for five years only. In 1525, however, the lands of Punderlaw and Disterland were set to thirty persons who actually cultivated them, some of these tenants holding as little as 1 acre of the whole, which extended to sixty acres.¹³⁴ From time to time, heirs of some of these people received renewals of leases. Interestingly enough, it was mainly to the sitting tenants that this area was feued in the 1550s.

Less democratic trends were under way, however. In January 1525/6 Andrew Gardin, whose family had held the lands of Dunbarrow since, at least, 1483, gave place to James Betoun of Melgound, the abbot's brother, who had given the latter a sum of money towards the redemption of a pension due from the abbacy to the earl of Moray.¹³⁵ This does not necessarily mean that Gardin would have to remove from the lands but if he remained he would, presumably, become a sub-tenant of the laird of Melgound. Members of the Lichton family had held the Bruntoun of Athie and parts of the mains of Athie since 1483 and 1493 respectively. When the abbot gave a liferent of the Bruntoun to his mistress, Marion Ogilvy, in 1528, David Lichton resigned his liferent of it and received instead half of the mains, a relative then holding

133 Liber S. Thome de Aberbrothoc, ii, nos. 67, 286, 690 (Bannatyne Club).

134 Ibid., ii, nos. 282, 557, 596.

135 Ibid., ii, nos. 219, 612.

the other half.¹³⁶ At the same time he had to put down a sum of money for his share of the mains for which the victual rent was more than double that laid down for Bruntoun. The lot of some tenants improved, however; William Tulloch and William Peddy, who received seven-year leases of Kinclune in 1485, had these converted into liferents in 1510 and 1512 respectively.¹³⁷ The nine-year leases of parts of Southterrie, granted to John Scot and David Lyn in 1488, were renewed as liferents in 1508.¹³⁸ In 24 out of 41 lands which changed hands in the period between 1500 and 1536, leases were renewed to heirs of the previous tenant or to another of his relatives.

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The registers which provide the fullest information for a study of this kind in the west of Scotland are those of Paisley abbey and the archbishopric of Glasgow.

The so-called Paisley 'rental' is, in fact, a register of the entry of tenants, kept in such a way as to show at a glance the succession of tenants in a given territory. The section covering the years 1526 (from the appointment of John Hamilton as abbot) to 1555 has been analysed for the purposes of this survey. The rental does not give the length of leases but the mention here and there of 'rentalling' and the fact that the leases are frequently renewed on

136 Liber S. Thome de Aberbrothoc, ii, nos. 230, 341, 697, 698 (Bannatyne Club).

137 Ibid., ii, nos. 258, 498, 525.

138 Ibid., ii, nos. 319, 466, 470.

the death of the last possessor suggests either life leases or rentals granted for life. Either of these arrangements could, of course, be terminated 'with the consent' of the holder. The phrase used continually at Paisley was 'assedatur est ...' which is very general in meaning. The interesting factor which comes out clearly on the Paisley lands is the proportion of lands set to heirs or relatives as against those given to 'new' tenants, viz:

Number of holdings set to persons
with same surname as previous
tenant or who are definitely said
to be related to him, or her 193

Number of holdings set to persons
who are not evidently related to
the previous tenant 108

Total number of renewals of 'lease' —
or 'rental' 301
—

The lands in question lay in Renfrewshire and part of Dunbartonshire and on the barony of Monkton in Kyle. The pattern of tenancy did not greatly vary in these districts; 36% of those who received leases, or rentals, in Kyle were not evidently related to the previous tenant compared with 38% in Renfrewshire and Dunbartonshire.

Most of the holdings changed hands only once during the period, the admission of new tenants taking place mainly between the years 1540 and 1552: this in itself suggests fairly long periods of tenure by individuals. In two cases the land was acquired through marriage. The west half of Candren was set, in 1544, to John Hoggsyard, a part of whose holding was given three years later to William Wallace, who had married John's daughter. Two tenants had their personal rentals

altered to conjunct fee between themselves and their wives, while another acquired land by marrying the widow of the previous rentaller. Widows were given rentals and passed these on to their sons, while land was sometimes set to an heir during his father's lifetime. The phrase 'with consent' occurs over and over again in connection with the transfer of land and it is evident that here, as on other church lands, the tenants changed and exchanged their holdings. Provided they continued to pay their rent regularly and did nothing without the consent of the landlord, there is every indication that tenants were able to arrange their legal and economic position to suit family circumstances.

As at Arbroath there was an 'undemocratic' trend in the pattern of tenancy on the Paisley lands in the sixteenth century. On the Ayrshire lands eleven dispositions went to lairds, seven of whom were Hamiltons. In the few cases where these lands, granted to lairds, changed hands again they invariably went to their sons. On the Renfrewshire and Dunbartonshire lands there were fifteen grants to Hamiltons, who included the abbey Graniter, 'officer' and 'sergeant', the captain of Dumbarton castle, a burgess of Paisley called Hamilton and to eight other Hamiltons, some receiving more than one piece of territory. The sinister aspect of this development is that these lairds replaced small tenants who actually cultivated the land and who were thus 'demoted' to the rank of subtenant. There is no way of knowing how much, if anything, they were paid in compensation. There is the odd instance of land returning to the family of a previous owner after it had been for some time in other hands. Part of the

Nether mains of Monkton was set to Adam Hunter but on his death passed to John Hamilton of Cunnok by a grant made at Stirling on 5 January 1547/8. Four years later it was set to Patrick and John Hunter 'with consent' of Hamilton.¹³⁹

In most cases, when land left the hands of the small tenant it did not return to him. Part of Monktonhill was set to Alan Grief and was occupied by his widow until her re-marriage, when it passed to her second husband Robert Boyd. In 1540 it was granted with their joint consent to John Hamilton of Cambuskeith and in the same year was set to his son called 'John the monk'. In 1552 it came into the possession of the laird's daughter, Margaret Hamilton.¹⁴⁰

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The diocesan registers of Glasgow comprise a splendid record of the entry of rentallors from about the beginning of the sixteenth century. The 'rentals' were normally granted for life unless otherwise terminated with the holder's consent.

The registers, published by the Grampian Club, have been analysed in order to give some idea of the amount of continuity of tenure on the barony of Glasgow and the results are set out in the following table which practically speaks for itself.

¹³⁹ J.C. Lees, The Abbey of Paisley, Appendix, clxx.

¹⁴⁰ Ibid., Appendix, clxviii.

The Rentallers of the barony of Glasgow

Rentallers entered with <u>consent</u> of last holder, who is not <u>evidently</u> related to him, or her	395
Rentallers entered on <u>death</u> of last holder, who is not <u>evidently</u> related to him, or her	4
* Rentallers who inherited their land	527
Occasions when no conditions of entry are given	17
	<hr/>
	943
	<hr/>

* Further analysis of the inheritance of land on the barony of Glasgow

Rentallers entered with <u>consent</u> of father	202
Rentallers entered on <u>death</u> of a relative (including father)	186
Rentallers who are declared to be related to the previous tenant	40
Rentallers who acquired land through marriage	50
Rentallers who inherited land through mother	49
	<hr/>
	527
	<hr/>

Taken at its face value, the Table seems to show that 55% of the rentals went to the heirs or near relatives of the previous rentallers, but does not give an absolutely accurate picture of the amount of continuity of tenure among the inhabitants of the barony. In the first place, it is conceivable that a family may have held a particular piece of land, in all likelihood that on which they lived, throughout the period of the register but may, from time to time, have acquired land in other parts of the barony, which means that a proportion of

land continually changed hands. Secondly, tenants not evidently related to the previous owner may well have been his nearest heir. It is possible that rentallers received money for their 'consent' and resignation of holdings, the money being used to acquire more land.

As elsewhere, the rentallers of the barony of Glasgow added to their holdings over the years. The family of Bargylly in Shettleston are a typical example. In 1528 John Bargylly held a small part of Shettleston in rental.¹⁴¹ The following year his son Thomas was rentalled in another portion of the same lands 'with consent' of John Anderson and his wife.¹⁴² In 1540, after John's death, Thomas was rentalled in all his father's lands.¹⁴³ Thomas Bargylly now bought a piece of Shettleston for his own son from one John Hog, but his son having died before him Thomas was rentalled in it himself three years later.¹⁴⁴ He now had three portions of Shettleston. A few months later he pounced on a fourth piece, forfeited from the unfortunate Hog, who had managed to have himself hanged - 'quhay was convict and justifit for crimez, and beand in our handis be resson of his eschettis.'¹⁴⁵ Finally, in 1566 and 1569 respectively, the family's possessions were divided between Janet Bargylly (with her husband) and her brother, their mother keeping the liferent.¹⁴⁶

The presence in the register of a number of widows who did not

¹⁴¹ Diocesan Registers of Glasgow, i, 90 (Grampian Club).

¹⁴² Ibid., i, 93.

¹⁴³ Ibid., i, 117.

¹⁴⁴ Ibid., i, 123, 128.

¹⁴⁵ Ibid., i, 136.

¹⁴⁶ Ibid., i, 186, 189.

re-marry is due to the charitable arrangement whereby they 'took over' their husbands' rentals and were known as 'St Mungo's wedowis'.

Thirty of the rentals went to daughters as heiresses of their fathers or other relatives, and were often altered to conjunct fee on marriage.

A number of lairds and cadets of noble houses, such as those of Elphinstoun and Boyd, were rentallers on the barony but there was less tendency here, than at Arbroath or Paisley, for these people to acquire land previously held by small tenants. When we come to study the pattern of feuing on the barony of Glasgow we shall discover that some families had held their lands in this part of south-west Scotland for most of the sixteenth century.

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The register of tacks of Dunfermline abbey, (which also, incidentally, includes charters and related documents) covering the years 1557 to 1585, cannot be taken as a comprehensive guide to that house's policy of leasing since it covers a mere 27 years and involves only the same number of territories out of the whole regality.¹⁴⁷

It does show, however, that every one of the 43 leases of land, not counting tacks of teinds or of parish churches, was granted for 19 years. Eleven were granted to members of small, landed families; 6 to John Wemyss of Pittencrief, 1 to Patrick Halkhead of Petfirran and 2 to Katherine Halkhead and her husband, Charles Danielston, 1 to Dundas of that ilk and 1 to the uncle of David Hamilton of Fingaltoun.

¹⁴⁷ Register of Tacks of Dunfermline Abbey: CH 6/3/1 (S.R.O.).

Twenty-six leases were given to those who were apparently the occupants and who received smaller portions than those granted to lairds. The remaining 6 leases went to Herbert Maxwell, burgess of Edinburgh, sir John Grant, chaplain of St Leonard and St John beside Dunfermline, Alan Coutts, the abbey chamberlain, Robert Ayton, described as the abbot's servant, who received two, and John and Peter Durie, presumably the abbot's sons, their mother, Katherine Sibbald, having the liferent of their lands.

The Register of the bishopric of Aberdeen, published by the Bannatyne Club, contains the texts of 61 tacks granted during the years 1549 to 1551. The duration of these tacks was as follows:

<u>Leases of lands belonging to the bishopric of Aberdeen</u>	<u>Duration</u>	<u>No. of leases</u>
1549-51	18 years	52
	19 years	8
	13 years	1
		—
		61
		—

The unusual term of 18 years may be explained by the fact that in the diocese of Aberdeen it was sometimes stipulated that the tack should be renewed to the same person every three years until the term had run out.¹⁴⁸ Four lairds are among those receiving tacks but all others appear to have been the occupants of the lands; the territories were leased in varying numbers of oxgangs, those of Mamelawcht to 4

¹⁴⁸ Registrum Episcopatus Aberdonensis, i, 434 (Bannatyne Club).

tenants, the kirktown of Clatt to 5, the lands of Auld Rayne to 15 tenants and those of Tolle to 6 persons.

No analysis has been made of the leases contained in the Holyrood abbey register which covers the years 1545 to 1567 but the preamble to a lease which is registered on folio 3 suggests that 19-year leases were customary by the first half of the sixteenth century, at least. This entry begins: 'Be it kend to all men be thir present letters We Robert be the permission of God commendator of the abbay of Halycroce besuyde Edinburgh, Alexander, abbot of Cambuskenneth, coadutor and administrator in spiritualite and temporalite of the said abbay, havand special powris be our halye fader the pape be facultie and forme of breif for setting of nynetene years takks and fewis of the landis, rentis and teindis of the said abbay ...'¹⁴⁹ The pope's grant is said to have been dated, at Rome, on 22 August 1539.¹⁵⁰

In 1551 and 1553 tenants of the abbey of Newbattle were given permission to wadset land which they held from the abbot 'in rentellin'.¹⁵¹ In 1558, in an appeal by a Newbattle tenant against eviction, his advocate, Mr John Spence, argued that the defendent could not be removed unless he forfeited his rental through treason or non-payment of his rent, having held his land for 4 years under abbot Edward Schewell and 28 years under abbot James Haswell. 'Becauss of

¹⁴⁹ Register of Tacks of Holyrood Abbey: CH 6/4/1, f.3 (S.R.O.).

¹⁵⁰ Ibid., f.19.

¹⁵¹ Protocol Book of Thomas Stevin: B 30/1/5, ff.51v, 79.

the consuetude of the said barony of Newbottle ane tenand being anis rentallit be vertew of the said rentale hes tytle and ryt to the landis quhilk he is rentalit in be vertew of his rentale, ay and quhill the same be forfaltit in ane court ...¹⁵² From this it would appear that the rights of a rentaller were regarded as incontrovertible as long as dues were paid, unless he were found guilty of a crime for which any man could be forfeited.

Supporting evidence for the currency of this theory comes from the other side of the country, in the case of Kilwinning abbey. In March 1533/4, six tenants complained to the Lords of Council and Session that lands which their families had held for many years were being feued over their heads to Hamilton of Cambuskeith. They urged the custom of the abbey 'that quhat tenentis havand takkis of thar landis be rentalling in thar rentale and pais thar males and dewties with ane gratitude to every abbot at thar interes thai sall bruke thar malingis for lyftymes, quhilkis is unbrokin as yit ...'¹⁵³ About a month later, abbot Alexander Hamilton, who lived on exceedingly bad terms with his neighbours, was ordained by the Lords to give a tenant an extract from his rental book - which he had previously refused to do. During the case it was stated 'that the use is, a tenand beand rentallit in the said rentale usit nocht to be remufit fra thar maling for thar lyftymes, thai payand thar males and dewties with ane

¹⁵² Register of Acts and Decrees, xviii, f.273.

¹⁵³ Acts of the Lords of Council in Public Affairs, 1501-1554, 413.

gratitude at the entres of ilk abbot.'¹⁵⁴ In 1536 when the same abbot leased the temporalities of the abbey to William Cunningham, provost of Trinity Collegiate Church, Edinburgh, he reserved to himself the power to grant 'all and syndry rentalling and assedacionis making ... settand ... to the nerrest of kin and kyndliest that hes the landis now in assedacion or rentale.'¹⁵⁵ Unless we are going to be cynical and say that the Edinburgh advocates had in their files a stock defence for rentallers, we shall conclude that the position of the latter was fairly secure, in theory at least, in those parts of the country where this form of tenure occurred.

Rentalling was common, if not invariably the rule, on the lands belonging to Melrose abbey. It was to rentallers that James Stewart, the commendator, feued the lands of Kylesmure in the 1550s. In 1573 commendator James Douglas gave a feu of the lands of Craigskean in Carrick to Patrick Mure of Cloncaird, 'of which lands his predecessors have long been rentallers.'¹⁵⁶

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The pattern of tenancy on those kirklands which we have considered, reflected in turn in the pattern of leases and rentals, does not entirely give the picture of insecurity and dislocation which is so often accepted as the general rule. Sixteenth century social

¹⁵⁴ Acts of the Lords of Council in Public Affairs, 1501-1554, 421.

¹⁵⁵ Ibid., 457-8.

¹⁵⁶ Melrose Regality Records, iii, 248.

reformers and critics of the 'Establishment', like their present-day counterparts, often found it necessary to exaggerate in order to draw public attention to social injustice. The picture, drawn by Sir David Lindsay, of the peasantry being rack-rented until 'thair winning will nocht find them water-kaill', or the statement by John Major that short leases usually ended in eviction, is no more accurate than the assertion that feuing always benefited the 'gentillmen' and Lords at the expense of the husbandmen. Of course, these things happened, but not all the time!

In turning over contemporary material of the kind concerned with everyday life, inventories of goods, testaments, protocol books, the minutes of burgh councils and kirk sessions and, not least, the sort of material we have been considering in this section, one has the impression that most Scotsmen and women lived through the revolutions and injustices of their day with the maxim - 'Business as usual'.

'The proude Persone, I thynk trewlye,
He leidis his lyfe rycht lustelye;
For quhy he hes none uther pyne,
Bot tak his teind, and spend it syne.'

'And all thir teinds ye haif amang your handis?
Thay war givin yow for uther causses, I weine,
Nor mummil matins and half your clayis cleine.

.

'The law is plaine, our teinds suld furnisch teichouris.'¹⁵⁷

People resented the payment of their share of the church's spirituality more than they did that of the fermes due from the lands which they occupied. Significantly, payment of teinds, 'corsepresandis',

¹⁵⁷ Sir David Lindsay, The Monarch, 152, 488 (Early English Text Society).

1. Lord Cardinall and archbishop of Cantuarie. Chancelor of Scotland. D. Vnt 30. 4. hndie me ind am
 2. John Wre 30. pnd Symonds Walter. Wre. Walter. chp. Mathew and John James Smith. Walter. Walter.
 a frame having John. Walter. indwelland at yd. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 82

'unmaist claithis', 'Pasche dues' and offerings tended to fall into arrears just before the Reformation. Litigation over the non-payment of teinds fills page after page of the registers of Acts and Decrees while around 1561 a number of vicars and other clergy complain, in their returns of their benefices to the government, of the fact that many parishioners had been on permanent strike for some time as far as the payment of the more customary exactions was concerned.

Teinds were something for which people could see little, visible, immediate return, their resentment resembling that of modern man towards income tax, while they paid their fermes with the reluctant resignation with which he parts with his rates. After all, there was something to show for the payment of fermes, a roof over one's head and some land on which to grow one's food and pasture animals.

Fermes were not paid without complaint, however. For the landlord to increase the rent above that paid by one's predecessors was felt to be not only unfair but immoral. Some tenants of Inchcolm abbey, who complained about a rent increase around 1543, said of the abbot, 'not allanerlie dois he siclike to us bot alsua to the remanent of his puir tenentis quhilk is not decent for ane kirkman to do ...' In their petition to Cardinal Betoun asking him to take action in the matter since the abbot had already ignored Governor Arran's letters on the subject (significant comment on the balance of executive power in Scotland at that juncture!), they explain that they are threatened with eviction if they do not pay the increase.¹⁵⁸

¹⁵⁸ Morton Papers: GD 150/1734 (S.R.O.).

Opposite: Complaint by the tenants of Inchcolm Abbey against the Commendator's raising of their fermes; addressed to Cardinal Betoun, c.1543. (SRO Ref.: GD 150/1734)

In 1559 tenants of the same abbey, living in the parish of Dalgety, went to the chamberlain and plainly declared that if the fermes were not lowered they would leave part of their lands waste for the commendator, James Stewart, to do what he liked with them. Even though the lands were set to them in steelbow 'yt the samen was set ovir gret and extreme ane ferme for mair nor trew and deligent housbandmen and labouraris nicht pay and haif ane resanable lyf to sustene thaimselfis and thair servandis ... and ... said that for na labour nor werk thai nicht do thai culd nevir hald thair awin bot wer evir behynd the hand.'¹⁵⁹ The Inchcolm incidents show that rent increases which were beyond the tenants' means were not all the result of feuing.

It is useful at this point to take stock, briefly, of the sources of revenue of ecclesiastical landlords and then to notice some of the ways in which it was spent, if not often on 'teichouris' at least on a great many things beside divine service and the laundry.

Basically, the revenue derived, directly or indirectly, from the kirklands consisted of fermes, feu-duties, teinds, whether paid directly, leased for money or sold back to the tenants or others, grassums for the renewal of leases and for feu charters, though the latter may have been pocketed by the superiors themselves, and casualties from courts held on behalf of the landlords by the various officials and their deputies. In the case of bishops, we are

¹⁵⁹ Charters of the Abbey of Inchcolm, 97-9 (S.H.S.).

concerned with revenue derived from land and not with that which accrued to them as administrators of a diocese which held other regalities within its boundaries.

In addition to this, many religious houses had revenue which derived from the nature of their endowments. Some, such as Dunfermline and Paisley, had burghs from which they drew customs and burgh mail. Most monastic houses drew annuals from burgh property and customs from the royal burghs, granted to them by the king. Revenue might also come from coal-mines, salt-pans and, as in the case of Dunfermline, lime-kilns. Melrose, and to a lesser extent, other border abbeys, were in business as sheep farmers. The account books of the Black Friars of Perth give some idea of the revenues of a small house on the eve of the Reformation.¹⁶⁰ These came from annuals of burgh property, mills and fishings, grassums for the renewal of leases, the sale of victual rent and small items such as sheep and lamb skins and oxen hides, from the customs of Perth and for 'processions and suffrage' accompanying the burials of townsfolk. There were also one or two charitable payments in money and kind.

In studying the 'charge' side of ecclesiastical estate accounts we are faced with the interesting question of how quite small tenants were able to pay part, if not all, of their fermes in cash, which they undoubtedly did, even in the early sixteenth century, showing that some money circulated among the rural population. It might be suggested that money rents, as quoted in tenants' leases and rentals

160 R. Mylne, The Blackfriars of Perth, 243, et sequ.

or in chamberlains' accounts, are merely a statement of the amount of rent to be paid for a piece of land and that, in practice, goods in kind or victual to the value of the stated amount might have been accepted. The following extracts from the Account Book, for 1527, kept by the chamberlain, or financial officer, who ran the affairs of Melrose abbey's barony of Kylesmure from his headquarters at Mauchline, suggests that this 'alternative arrangement' was the exception rather than the rule in this district at least. In a list of the 'rests' of mail for 1527 paid by the tenants of 22 territories, 90 tenants are noted as having paid money rents while details of payment by the 6 remaining tenants are given as follows throughout the account:¹⁶¹

'Item, Hew Campbel pait in nolt	16s 6d
'Item, Wille Forgusson payt in an cow	12s 3d (this line deleted)
'Item, Adam Waus pait in an cow	12s 10d
'Item, Margt Lowre pait in corn	18s 6d
'Item, Andro Mychel a cow	17s (this line deleted)
'Item, Andro Mychel in an cow	10s 6d'

Numerous entries in the Book of Compositions belonging to Coupar Angus abbey reveal tenants, in rural areas, who were able to lay down payments for their leases. A few examples are sufficient to illustrate the point:

¹⁶¹ Account Book of Melrose Abbey (1527), Morton Papers:
GD 150/1448, ff.2-5.

Chapeltoun

'Quhilk day componit with Thome Jamesoun ... for 19 yeris tak ... for ane thrid pairt of the Chapeltoun at he occupiis now: Entres at Whitsunday in 1574 yeris: Composition £40, of the quhilk £10 in hand pait and £10 gude Wodnisday, and the tothir £20 at Mydsomer nixt to cum.'

'Quhilk day componit with Johane Campbel for ane thrid pairt of Ovir Muirtoun ... Composition 10 merks ... of the quhilk 5 merkis gratis for gude service to be doine, and 5 merkis in hand pait to the sup-prior.'

'Quhilk day componit with Riche Walkar ... tane half of the Walk miln of Kincrecht ... Composition 50s all pait in hand to the sup-priour.'

'The samyn day componit with Henry Thome for renewyng of ane common seill to hyme ... of sex acris of land ... Composition £10 all pait in hand to my lord.'¹⁶²

The following details from the Kilwinning chamberlain's account for 1563 spotlights the difficulties of one tenant in scraping together enough money to represent the arrears of his teinds for several years before. Three friends of James Campbell in Doucathill presented the

162 Register of Cupar Abbey, ii, 222, 225, 227.

chamberlain with £17 2s on his behalf 'togadir with ane Inglis piece of silver for 18s money.' The chamberlain was rather sceptical about the value of this coin; 'and geif the said pece of silver be nocht wyrthe 18s I sall delyver the samen agane to Johne Young or James Campbell for 18s.'¹⁶³

We can imagine that payment in money would recommend itself, not only to absentee landlords but also to their chamberlains. Payments in kind were comparatively difficult to gather in and even after they had been collected had often to be sold. Money rents saved time and trouble and kept down the 'office expenses' section of the chamberlain's account.

The practice of selling victual rents, often to the tenants themselves, suggests that the latter had ready cash with which to pay for them. In 1573, 28 chalders of victual were stored in the granary of Scone abbey and 20 chalders were sold to the tenants; bere sold at 56s 8d and meal at 48s per boll.¹⁶⁴ There is no indication, of course, of the kind of tenants who bought the victual but the way in which the entry in question is set out suggests that it was sold 'on the spot' and not brought to the abbey granary, and if this was so then tenants of all kinds may have been involved:

'The charge of victualles of the 1573 yeiris
crop Ressavit in the granellis and sauld
to the tenentis.

163 Kilwinning Abbey Rental: Society of Antiquaries Collection: GD 103/2/22 (S.R.O. Original, penes, Irvine Town Council).

164 Rental of Scone Abbey. Yule Collection: GD 90/2/10, f.3 (S.R.O.).

'In the first ressavit in the granellis	28 ch. vict. or therby
Item, sauld to the tenentis	20 ch. or therby

Summ. 48 ch/alders'

In 1528 teind lambs were sold to tenants of Kylesmure who, though probably not among the poorest inhabitants, were certainly not lairds.¹⁶⁵

The widespread commutation of services also meant a variety of small money payments from tenants. Commutation was unevenly developed over the country as a whole. The duties and services performed by the Coupar Angus tenants as late as the middle of the sixteenth century are too numerous and varied to be detailed here but were a mixture of services to the 'place' itself and of contribution to the 'policy' of the estates as a whole, in which commutation was rare. In mid-century the Paisley tenants were paying 'bownsilver', a commutation, but were still performing so many days' shearing or harvest work and long and short carriages, though a long carriage from Monkton to Paisley could be commuted for 10s, rather a hefty sum.¹⁶⁶ In the 1530s the tenants of Kilwinning paid 'dam silver', presumably towards the upkeep of the dam on the river Garnock, commutation of 'dawerks', or harvest work, but still performed carriages.¹⁶⁷ When we see, in due course, how much some tenants were willing to pay for heritable tenure of their holdings, we shall be able to accept that they were willing to scrape together a money payment in place of the hated 'arriage and carriage'.

165 Account Book of Melrose Abbey (1528), Morton Papers: GD 150/1448, f.1 (S.R.O.).

166 J.C. Lees, The Abbey of Paisley, Appendix, clxvii.

167 Early Rental of Kilwinning Abbey. Eglinton Muniments: GD 3/1361, passim (S.R.O.).

Expenditure from the revenues of an ecclesiastical estate fell into four main categories.

Firstly, there were the ordinary administrative expenses which included the fees, where these were paid directly, of bailie, justiciar, chamberlain, serjeants and officers, including those of the various courts. Whereas the higher officials often paid their immediate deputies the superior would appear to have been responsible for the fees of lesser officers. The chamberlain of Dryburgh paid the 'officer' 40s in money and 1 boll of bere.¹⁶⁸ That of Dunfermline paid the fees of the officers of Dunfermline and Musselburgh and of the baronies of Dolour, Kirkcaldy, Kinglassie, Kinghorn and Newburnshire.¹⁶⁹ The commendator of Newbattle included in his expenses the fees of not only the bailies of his baronies of Newbattle, Monkland and Crawfordmuir but also of their deputies and officers.¹⁷⁰ Tenants may, on occasion, have been required to contribute towards the payment of serjeants. In 1557 the Courts decided that the superior and not his bailie had the right to charge a 'seriand fee' from the tenants, in this case 1 'thraif' of corn for every half plough of land.¹⁷¹ The serjeants of the archbishopric of St Andrews were paid varying amounts depending upon how far away their duties took them; those in Fife received 40s or 2 merks each, the serjeant of Angus had 5 merks and those in Aberdeenshire and the lordship of Stow £3.¹⁷²

¹⁶⁸ Liber S. Marie de Dryburgh, 401.

¹⁶⁹ Registrum de Dunfermelyn, 453 (Bannatyne Club).

¹⁷⁰ Registrum S. Marie de Neubottle, 334 (Bannatyne Club).

¹⁷¹ Register of Acts and Decreets, xiv, f.92.

¹⁷² Rentale Sancti Andree, 92, 93.

The regular expenses of bringing in the teinds and selling them, details of which were kept in 'riding books' and 'teind books', were finally accounted for by the chamberlain, or by the granter if he presented separate final accounts. Fees of 'curates' of appropriated churches had to be deducted, although arrangements were sometimes made for the tacksman of a parish kirk to fee the curate.¹⁷³

Methods of administering the economic assets of a monastery varied from one house to another and the difficulties of doing so were frequently resolved by feuing coal-heuchs and salt-pans or the lands which contained such mineral resources. Entries on a very fragile page of a Kilwinning 'rental', dating from before 1540, reveal that at that time the 'Monkiscoilheuch' (now called Mosculloch) was being worked with direct labour; there is a list of small victual payments to upwards of twenty 'colliars'.¹⁷⁴ Alan Coutts, chamberlain of Dunfermline, included the following report on the abbey's mines at Wallyford, near Musselburgh, in his statement made to the government in 1561: 'we mak na rentall of the coill of Wellyfuird becaus it is bot ane casualtie and in the yeir of God 56, 57, and 58 large expenssis wes maid in wyning of the samin abone the sowme of £500. And in the 59 yeir the erll of Arrane and his factouris intromettit therwith and sen syne hes waisted the haill coill in sic sort that na proffet can be had therof without greit expensis in tyme cuming, as the haill cuntrie knawis.'¹⁷⁵ Wallyford mines were feued in March 1576/7.¹⁷⁶

173 Register of Acts and Decrees, xxii, f.216v.

174 Early Rental of Kilwinning. Eglinton Muniments: GD 3/1361, f.30v.

175 Registrum de Dunfermelyn, 456.

176 Register of the Great Seal, iv, 2659.

In 1583 the commendator and convent of the same abbey leased the coal heuch at Wester Baldrig to Thomas Welwood 'grieve, keeper and sustainer of the coal and coalheuchs of Westir Baldrig', giving him liberty to develop the mines at his own expense in return for which he was to pay the abbey so much victual in the year and enough coal to supply the 'halls' there all the year round at the rate of 7d per load.¹⁷⁷ At Pittenweem and Culross the working of the saltpans seems to have been left to those tenants who received leases - and later, feus - either of the pans themselves or of the ground on which they stood and for which they paid a fixed duty to the monastery.¹⁷⁸

Another regular commitment was the payment of labourers. While in many areas carriage service and harvest work was supplied by the tenants, uncommuted, it is clear that a number of establishments paid labourers to do this kind of work. While these people may well have included local inhabitants who could be spared from the family holding in order to earn a little extra money or sustenance, many of them must have been casual labourers who took on seasonal, agricultural employment. One wonders how this practice tied up with the problem of the 'sturdy beggars'. The accounts of Dunkeld are full of payments to workers who dug peats, carried coal, cut down trees and helped with harvest work of all kinds. Payments were made to 'the boys working with Alexander Stewart in the meadows' and 'to men working in the quarry for the fabric of the bridge.'¹⁷⁹ The St Andrews accounts include the expenses

177 Register of Tacks of Dunfermline Abbey: CH 6/3/1, f.145v.

178 Laing Charters, nos. 402, 442.

179 Rentale Dunkeldense, 82, 99, 100.

98 So if Aubrey and my partner
to your Dy-garbed I will give
and give for my share of yellow.
I would give for the
my money in R

[illegible]

The second group of commitments were what might be called 'extraordinary' in that they happened at irregular intervals, though some of them became so frequent in the sixteenth century as to be almost regular, if not continual, expenses. These included taxation, for whatever purpose it might be, levied both by the Roman curia and the king of Scots, the expenses associated with provision to prelacies, which included not only the cost of successful appointments but the money spent in the many unseemly competitions for vacant sees in which a number of would-be bishops (to use political parlance) 'lost their deposits'. The expenses of court actions, which might be thought of as extra-ordinary, were more or less continual for clergy and lay commendators were litigious in the extreme. In this category also were repairs to appropriated churches and to the monasteries and cathedrals themselves. One of the most serious drains on ecclesiastical revenue in this period was the growing number of pensions, granted to individual clergy and to laymen, chargeable on many prelacies, which had to be recouped, usually by leasing or feuing the property. After 1562 there was the deduction of the 'Third' to be made, or, alternatively, the payment of stipends to the ministers of parishes within the regality, as well as the expenses of communion from time to time.

The third type of expenditure was that of the internal administration of a monastery, met by lay and ecclesiastical commendators alike, or the expenses of a bishop's household. The Rentals of St Andrews and Dunkeld show how the cost of running an episcopal household, from the upkeep of the fabric of the bishop's houses and castles to the

food, clothing and salaries of his 'staff' and personal servants was met from the revenues.

In the internal administration of a monastery the biggest, single item of expenditure was the provision of the monks' portions, extending to a fairly large sum of money and victual. The amount varied from place to place depending upon the size of the revenues as a whole or upon the terms of an agreement between the convent and the superior. The senior member of a convent, prior or subprior, sometimes received a double portion and there is mention of a novice as a 'half portioner'. From the Register of Acts and Decrees and the Register of Testaments we learn the value of portions around the middle of the sixteenth century; a canon of Inchaffray was said to receive £40,¹⁸⁴ a monk of Kelso £20 with 1 chalder, 6 bolls of victual,¹⁸⁵ Culross £16 18s 4d, including 'kitching', 'habit' and 'pittance' silver, 24 bolls victual, 22s to spend at Christmas, Easter and Patron Day and a chamber and yard worth £40 a year,¹⁸⁶ Glenluce £16,¹⁸⁷ Holyrood £24 14s, over a chalder of victual and a certain amount held 'in common' which included £20 for the kitchen, £3 for coal for the frater, £3 for table-linen and £6 13s 4d for the expenses of the brewhouse.¹⁸⁸ The canons of Cambuskenneth shared £97 6s 8d in common apart from their fairly substantial individual portions,¹⁸⁹ those of Inchmahome, on the other hand, had a mere 21 merks each, 2 chalders of oatmeal and their

¹⁸⁴ Register of Acts and Decrees, xxv, f.198.

¹⁸⁵ Register of the Privy Seal, li, f.86.

¹⁸⁶ Register of Acts and Decrees, xxvi, f.382v.

¹⁸⁷ Ibid., xxvii, f.374v.

¹⁸⁸ Ibid., xxviii, f.355.

¹⁸⁹ Ibid., xxix, f.186.

chambers and yards.¹⁹⁰ The monks of Newbattle had 16 bolls of victual each and 6s per week to live on for 40 weeks of the year, with 3s 4d for the other 12 weeks, including Lent and Advent, in addition to £6 habit silver, a quantity of butter and cheese and a chamber and yard.¹⁹¹ In 1561 the commendator, Mark Kerr, accounted for £240 paid to the remaining brethren of Newbattle whom he described, with more accuracy than elegance, as 'sex agit, decraipit and recantit monkis.'¹⁹²

The monastery servants, of whom there were many, had also to be paid. At Kilwinning in 1536 these included the 'cook, baxter, ledar, porter, gardener, child of the hall, barber, washer of the clothes, child of the cellar, maltman and bellman'.¹⁹³ In some houses tradesmen of various kinds would seem to have been permanently employed, or employed for part of most years; in addition to the barber, porter, 'bedell', washer of the clothes and keeper of the vessels, there were paid by the chamberlain of Dunfermline abbey a plumber, glasswright, mason, wright and a slater, with his servants. He also gave 5 chalders 12 bolls of victual to the convent 'to be given to their servants'.¹⁹⁴ At Coupar Angus abbey contracts of employment were drawn up between the abbot and convent, on the one hand, and masons, carpenters, plumbers, slaters and smiths who agreed to work for a fixed period in return for their board and lodging and certain money payments. A number of boys were apprenticed to these craftsmen, to work for the monastery in the

¹⁹⁰ Register of Acts and Decrees, xxix, f.452.

¹⁹¹ Ibid., xxxii, ff.386-7.

¹⁹² Liber S. Marie de Neubottle, 334.

¹⁹³ Acts of the Lords of Council in Public Affairs, 1501-1554, 457.

¹⁹⁴ Registrum de Dunfermelyn, 453.

future.¹⁹⁵ In 1528 James Wilson contracted to work for the abbey of Melrose, at Mauchline, from 12 January till 25 July, that is for 28 weeks, receiving 6s per week.¹⁹⁶

Other expenses of the 'internal administration' were the distribution of alms, which was certainly done in some houses, and the giving of hospitality to visitors, or to a commendator and his household when they happened to be in the monastery.

There is little contemporary evidence of resentment by the tenants of the degree of apparent comfort enjoyed by the inmates of many monasteries but one cannot help thinking that the peasant farmers of the parish of Mauchline, had they had access to the chamberlain's account book, would have been understandably indignant as they discovered, in the following entries, the destination of the 'corse-presandis' which they could ill afford and which had been taken from them by the monastery of Melrose as vicar of the entirely appropriated parish kirk:¹⁹⁷

'Imprimis, for Robbe Lawes wyf, an sow quhilk past to Melros.

Item, Andro Allan/g wyf, an hors, to dein Robert Hudson.

Item, Jok Hogs, an hors, quhelk was sald for £2 and delyveryt to the abbot, 29 July.

Item, Jok Ard, an meir, delyveryt to the abbot.

Item, Wedo Wyle, an sow ... send to Melros.'

The fourth category of expenditure, which it is not our business

195 Register of Cupar Abbey, i, 304-10.

196 Account Book of Melrose Abbey (1528) Morton Papers: GD 150/1448, f.3.

197 Ibid., f.17.

Part One: The Background

Chapter Three

The immediate causes of feuing

Chapter Three

The immediate causes of feuing

In spite of the magisterial tone of the act of the Scottish parliament which, in February 1457/8, stated, 'the lords thinks speidfull that the king begyne and gif exempill to the laif,' it is clear that some churchmen had set lands in feu-ferme in the days before the Wars of Independence as well as in the fourteenth and early fifteenth centuries.

Six of the thirteenth century feu charters (see Table at p.16) relate to the bishopric of Moray and one to each of the abbeys of Balmerino and Dunfermline. The Balmerino charter,¹ dating, probably, from the end of the century, records the earliest feu, so far discovered, of a piece of burgh property - a tenement of land and a house in Dundee - granted well before that burgh received a feu charter of its customs from the Crown. In the war conditions of the time - William Wallace is known to have besieged Dundee in the autumn of 1297 - abbot William may have been glad to put the safe-keeping of a distant piece of property in the hands of someone on the spot. The charter was granted to William Welyeuyth 'and his heirs', the feu-duty being 11s in silver. Also towards the end of the century Ralph de Greenlaw, abbot of Dunfermline, who submitted to Edward I of England in 1296, feued 16 acres of the lands of Cramond and parts of the town of Clerbaldistoun, in Midlothian, to 'Mr William de Cramund', some of

1 C. Innes, Sketches of early Scottish History, 111.

which had originally been gifted to the abbey by an ancestor, 'John, son of Thomas de Cramund'.² According to Sir James Balfour, it was 'not lawful' for a man to give land to the church and to take it back again to be held from the latter in chief.³ The law said nothing directly, however, about the re-disposition of land to a descendant of the original granter and this Dunfermline charter is an early example of a process by which, as time went on, the proprietorship of many lands - of which the superiority remained with the church - returned to the families who had originally parted with them for pious causes, a process which is especially apparent in the case of parish kirklands and the lands of collegiate churches and private chapels.

The background to the 6 feu charters granted in the 1230s by Andrew, bishop of Moray, shows that before feuing became an 'economic movement' it might be resorted to as a solution to local problems. Five of Bishop Andrew's charters were granted in order to 'end a dispute' about the possession of lands in the diocese, particularly in the upland district of Badenoch which suffered in the early part of the thirteenth century from the conflict of Anglo-Norman and native factions as the Crown tried to bring this part of the province of Moray under effective government administration.⁴ The earliest of the Moray charters, dated September 1232, conveyed half a davoch of land called Kyncarny to Gilbert, earl of Strathearn; unlike the later charters it

² Registrum de Dunfermelyn, no.324.

³ Balfour's Practicks, i, 142.

⁴ G.W.S. Barrow, Feudal Britain, 247.

does not give a reason for feuing.⁵ The grant of half a davoch of land at the church of Hurchard (?Urquhart) to Sir Alan de Hostiarium, in 1233,⁶ that of half a davoch in Deveth and of the same amount at the church of Kincardine (in Strathspey) to Sir Alexander de Strivelyn and Walter Comyn, earl of Menteith, respectively, in 1234⁷ and that of the lands of Ewen and Budister to Walter de Moray, a kinsman of the bishop, in 1235,⁸ were all made in order to end disputes. Further research into the background circumstances might reveal whether it was the case that the grantees had been disputing the land with the bishop or that the feuar was brought in to act as a permanent check on the disputes of lesser, local tenants. We know that it was about this time that the lordship of Badenoch came into the hands of the Comyns and that shortly before receiving his feu charter of the kirklands of Kincardine Walter Comyn had made an agreement with the bishop, in which their respective rights over the inhabitants of Badenoch were defined.⁹ About the same time as these charters were granted the bishop feued the lands of Kinterlagan to David, son of Patrick de Graham, for 100s a year. This attempt to make the whole of these lands hereditary in the de Graham family caused trouble with William de Fentoun with the result that David had to resign the lands into the bishop's hands, after which they were divided between his father, Patrick, and William, each paying 6 merks a year, which transaction was to the bishop's

5 Registrum Episcopatus Moraviensis, no.80.

6 Ibid., no.83.

7 Ibid., nos.86, 85.

8 Ibid., no.87.

9 Ibid., no.76.

financial advantage.¹⁰

The fourteenth century charters which have been found were granted by two bishops of Moray, by the abbots of Newbattle, Arbroath, Dunfermline and Balmerino and by the head of the collegiate church of Abernethy, at that time (1394) called 'prior'.¹¹ It is possible that the Crown policy of setting the customs of the royal burghs in feu-ferme in return for a fixed payment, which was extended during the fourteenth century, may have encouraged ecclesiastical corporations to feu property which lay in the burghs. Feuing was also a way of increasing the immediate value of property which may have suffered war-damage early in the century. In this period there were feu charters of land in the burghs of Stirling, Perth, Crail and Elgin belonging to the abbeys of Arbroath, Newbattle and Balmerino and to the bishop of Moray. John, abbot of Arbroath, granted a charter, in 1390, to Robert de Dunbrettane and his heirs of all the land belonging to the abbey in Stirling on condition that the abbot and convent, and their servants, would be provided with a suitable lodging and stabling for their horses when they came to the burgh.

In 1395 the abbot of Dunfermline actually gave the burgesses a feu charter of the customs of his burgh¹² but, from details of business discussed during the meeting of parliament in 1323, it appears that this abbey had granted feu charters early in the century. The abbot

¹⁰ Registrum Episcopatus Moraviensis, no. 124.

¹¹ Ibid., nos. 138, 168; Liber S. Thome de Aberbrothoc, ii, 8, 31, 35, 40; Liber S. Marie de Neubottle, no. 279; J. Campbell, Balmerino and its abbey, 210; Register of the Great Seal, v, 964.

¹² Registrum de Dunfermelyn, no. 396.

of Dunfermline asked that parliament take account of the fact that five separate territories had been held in feu-ferme from the abbey by David de Hastings.¹³

It was during the fifteenth century that the Crown gave official recognition to the feuing of land - including kirklands, which the king regarded as having been originally part of his patrimony - deliberately encouraged it by an act of parliament and showed an example by setting many of the Crown lands in feu.¹⁴ It is unnecessary, here, to go into a detailed assessment of the amount of feuing on Crown lands, except where this is specially relevant, since this has been done by, among other writers, Dr Isobel Grant in her book 'Social and economic development of Scotland before 1603',¹⁵ though we shall look more closely at the legislation on the subject in a subsequent context. Dr Grant states that, apart from a burgess of Cupar, the names of the king's feuars were to begin with 'largely those of landed gentlemen'. She indicates that the earliest Crown feuing took place from about 1452 in Fife, Menteith and Ettrick Forest. She then goes on to say, 'as the sixteenth century drew towards its great central event, the establishment of the Reformation, the poverty of the king had not only the direct effect of encouraging the feuing of Crown lands but also, indirectly, through the papal subsidies granted to James V and also to Mary of Guise, it had an effect of precipitating the feuing of the

¹³ A.P.S., i, 481.

¹⁴ Ibid., ii, 49.

¹⁵ I.F. Grant, Social and Economic development of Scotland before 1603, 265-70.

church lands.'

Fifteen charters date from before the act of parliament of February 1457/8; 7 from Dunfermline abbey, 2 from the bishop of Brechin, 2 from Paisley abbey, 1 each from the abbeys of Arbroath, Holyrood and Newbattle and 1 from the bishop of Moray. Richard, abbot of Dunfermline, feued the burgh fermes and customs of Kirkcaldy in January 1450/1 to the bailies and community there 'as freely as the burgesses of Dunfermline',¹⁶ who had received their charter in 1395. In 1443 Walter, abbot of Arbroath, feued the kirklands of Brekko to John Ogilvy of Lintrathen. The charter is in the form of an indenture which states that the lands are being set to Ogilvy '*quia terra nostra ecclesiastica de Brekko adeo connexa est ... cum terris prefati domini ... quod in potestate hominum separationem sive dispositionem veram facere ... non consistit unde timemus periculum et formidamus preiudicium ... nobis ... generari.*'¹⁷ The arrangement illustrates how a laird might round off his estate by feuing apparently small pieces of land if he were in a position to put pressure on the superior.

The number of feu charters of kirklands certainly increased after legislation on the subject. It should be mentioned, however, at this point that of the 73 feu charters issued before the end of the fifteenth century, 42 were granted by abbot George Shaw of Paisley (1472-98) and represent the clearest case of a definite feuing 'policy' in the whole

¹⁶ Registrum de Dunfermelyn, no. 432.

¹⁷ Liber S. Thome de Aberbrothoc, ii, no.86.

of the fifteenth century. A register of the feus granted by him at this time and in the early sixteenth century is now in the possession of Paisley public library. In 1488 the 'toun' of Paisley was erected into a burgh of barony for the abbot and two years later he set in feu to the burgesses considerable portions of the terra burgalis, lying on both sides of the King's highway and along 'Causayside' with one or two outlying pieces in the terra campestris, including the lands of Seedill on the monastery's side of the river Cart. Ten charters contained licence to 'build houses', showing that a certain amount of development of the 'built up' area was expected to take place as a result of feuing.¹⁸

Other charters dating from the second half of the fifteenth century were granted by the abbeys of Arbroath, Kelso, Newbattle, Holyrood and the nunnery of North Berwick, by the archbishop of St Andrews and the bishops of Moray and Dunkeld, by the preceptory of Torphichen, the collegiate church of Bothwell, the Dominicans of Edinburgh, the Carthusians and Dominicans of Perth, the dean of Glasgow as prebendary of Hamilton and by the chaplain of St Salvator's altar in Dundee parish church, who happened to be a canon of Dunkeld.

In one or two cases it was stated that the lands were granted on the resignation of another person or on the possessor's resignation in order to receive confirmation, the circumstances in some cases showing that the lands had been feued for the first time or, at least, were

¹⁸ Paisley Register of Feu Charters, ff.7-10, 17-18, 22-5, 32-3, 35-7 (Paisley Public Library).

said to be held hereditarily, at a date earlier than that of the surviving charter. The lands of Forglene in Banffshire were 'confirmed' in feu ferme to Alexander Irvine of Drum in 1483/4;¹⁹ those of Kynnard were granted in feu by the abbot of Newbattle to Edward Bruce in 1499 'to be held as his father held them.'²⁰ In 1482 the abbot of the same house ratified a charter of sub-feuing of property in Leith Wynd, Edinburgh,²¹ and in 1484 the abbot of Holyrood feued to Patrick Money-penny the lands of Pilrig 'which he possessed hereditarily'.²² In 1479 the Dominicans of Edinburgh granted a feu charter to Nicholas Cant of land in the burgh which Robert Vaus had already held in feu ferme.²³

In only three of these later fifteenth century charters is the ostensible reason for feuing stated. A month before he received his charter of the lands of Rothiemurchus, Alexander Keyr Mackintosh entered into an agreement with the bishop of Moray in order to end the 'controversy' between them. As often happened in so-called 'agreements' the terms were arranged for the ultimate benefit of the feuar; if Mackintosh could find lands of equal value within a specified district of the province, and if he then infeft the bishop and chapter in them, to be held of the king in chief, he was to have the lands of Rothiemurchus free of all future payment of feu-duty.²⁴ The charter by Malcolm, abbot of Arbroath, to Thomas de Tulloch in 1459, granting

19 Register of the Great Seal, v, 876.

20 Liber S. Marie de Neubotle, no.305.

21 Ibid., no.304.

22 Balfour of Pilrig Papers: GD 69/1 (S.R.O.).

23 Laing Charters, nos.176, 177.

24 Registrum Episcopatus Moraviensis, Appendix, no.448

him the lands of Tulloch and Craqhy, to the former of which his father, Walter de Tulloch, had been served heir in 1438, bluntly admits that it was an attempt to end a longstanding quarrel; 'after many controversies between the said monastery on the one hand and the late Walter de Tulloch of Bonnytoun and Thomas de Tulloch, his son, on the other.'²⁵ Only in one charter of this period have I found a specific reference to the act of parliament 'anent feu ferme'. In 1468 the provost of Bothwell collegiate church feued the lands of Osbarnstoun to Mr Robert Hamilton, canon of Glasgow, and certain, named, lay assignees after him with consent of the patrons and 'virtute etiam et vigore acti parliamenti Jacobi II Scotorum Regis et trium regni statuum.'²⁶

The surviving pre-1500 feu charters of kirklands, while they show a variety of background circumstances and would seem, to some extent, to be the result of outside pressures such as war conditions, the introduction of feu ferme tenure in the royal burghs and legislation which was deliberately intended to foster the process, nevertheless, appear, on balance, to owe more to local than to national circumstances, especially to friction with local landholders over the possession of lands. They may at times have been a means of 'buying off' troublesome neighbours; we have seen that the bishop of Moray had to come to an agreement on parchment with a magnate over the question of their respective rights over the inhabitants of a particular district. In 1380 the 'Wolf of Badenoch', Alexander Stewart, and bishop Alexander

25 Liber S. Thome de Aberbrothoc, ii, 83; Register of the Great Seal, v, 1027.

26 Ibid., ii, 985.

Bur had a personal confrontation on this very question while the former was in the act of holding his court as lord of Badenoch.²⁷ In February 1386/7 he obtained a feu charter from the bishop of land in Arbreachy, two years before he set fire to the cathedral of Elgin.²⁸ The trials of the bishops of Moray and the 'disputes' of the abbots of Arbroath are in contrast to the economic and town-planning of abbot George Shaw of Paisley at the end of the fifteenth century.

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When we come to look at the immediate background to the feuing of kirklands in the sixteenth century the increased volume of charters enables us to distinguish three basic types of circumstance in which the superior of ecclesiastical property might resort to feuing. These were, firstly, the pressure of financial and economic conditions which must, in varying degrees, have affected the country as a whole; secondly, the effects of political relations with England which brought about war-damage and loss of income, combined with the unsettling effects of the growth of the reform movement within and without the church which was inextricably linked with the political situation, especially by mid-century; and, thirdly, personal and local conditions, social, financial and economic in character. We are often forced to take the reasons for feuing given in the preambles to many charters at face value but, in any case, they do tie up with what we can gather

²⁷ Registrum Episcopatus Moraviensis, no.159.

²⁸ Ibid., no.168.

from other sources as to the background to life in sixteenth century Scotland.

There can be little doubt that the superiors of ecclesiastical property from about the beginning of king James V's personal reign onwards were under considerable financial strain. The prelates ultimately agreed to grant the king £72,000 in four years in addition to a permanent subsidy of £1,400 a year from their benefices, ostensibly towards the endowment of the 'college of justice' and for the 'defence of the realm'. Moreover, in the frequent financial levies for military purposes in James's reign and during the regency of Mary of Lorraine the church was liable for half of the national tax. It is all very well to set this against the fact that, compared with the Crown's patrimony of some £17,000, the church's wealth stood at over £300,000 but this ignores the considerable variation in wealth throughout the church itself; if the bishops were feeling the pinch even more so must the small monastic communities in the western marches or on the Highland line.

In the preambles to 24 charters it is stated that the feu is given in return for money to pay taxes. In many more cases there is mention of 'help to pay creditors' which may refer to debts incurred through attempts to pay taxes rather than to personal debts. Eleven charters dating from James V's reign or from immediately after his death reveal attempts to recoup the 'Great Tax' authorised by pope Clement VII and lifted by the king. In 1536 James Stewart, canon of Glasgow and commendator of Dryburgh, received 280 merks from Mr Andrew Hume,

brother of the laird of Wedderburn, to 'sustain' the monastery 'ac solutionem taxe regis sede apostolica concessa.'²⁹ In 1539 the abbot of Balmerino granted a feu charter to Andrew Leslie, son of the earl of Rothes, 'pro pecuniarum summis regi pro taxa per papam ei concessa persolutis.'³⁰ Help towards the payment of taxation was one of the stated reasons why the abbot of Kelso feued most of the barony of Lesmahago to Sir James Hamilton of Finnart in 1533.³¹ This reason for feuing sometimes appears in charters to smaller folk as, for example, in that to Alexander Ferkar in Gilmuliscroft, a kindly tenant in Kylesmure, granted in 1535.³² After the death of James V, reference is still made to the need to recoup outlay in taxation since the church was still paying £1,400 per year to the Crown. In January 1552/3 William, commendator of Culross, granted a charter in return for a thousand merks 'for repairs, to give his creditors and to pay the great tax imposed by the pope.'³³ Heads of smaller houses found the expense even more difficult to meet. In 1543 Adam, commendator of Dundrennan, feued lands in the stewartry of Kirkcudbright to Mr James McGill, then an up-and-coming advocate who had already appeared in court actions on behalf of the abbey, in return for 600 merks, some of which was used to pay 'taxes imposed by the pope' because the commendator and convent could not do so themselves.³⁴ Two months

29 Register of the Great Seal, iii, 2332.

30 Ibid., 2624.

31 Ibid., iii, 1330, 1885.

32 Ibid., iii, 2657.

33 Ibid., iv, 746.

34 Ibid., iii, 3106.

after the king's death the prior of Strathfillan received 300 merks from James Campbell of Lawers, partly to pay taxes levied during the late king's reign.³⁵

At this slightly later period there were frequent taxations for defence purposes. In 1547 William Hamilton of Sanquhar gave the commendator of Melrose money 'to pay the tax levied for war' and in 1558 the provost of Lincluden received from Hugh Douglas of Dalveen £2,000 to help pay certain taxes levied for the defence of Scotland.³⁶ The perpetual tax of £1,400 a year was to be lifted from benefices in the patronage of the prelacies. Thus as late as 1567 the perpetual vicar of Bothkennar, with consent of the prioress of Eccles, to which house this parish church was appropriated, feued the kirklands in return for 200 merks 'pro relevamine suo solutionis taxationum per prelatos Scotie ad defensionem eiusdem concessarum persolutis'; the transaction was probably for the ultimate benefit of the prioress rather than the vicar, especially as the feu was going to her kinsman John Hamilton.³⁷

We need not imagine, of course, that money received at the granting of a feu charter was necessarily used to pay taxes, or, for that matter, to meet any other commitments which the superior cared to have written into the preamble. The fact is that a great many feus were virtually bought - sometimes for vast sums of money - and the laudable and pious reasons given in the charters were an attempt,

³⁵ Register of the Great Seal, iii, 2993.

³⁶ Ibid., iv, 1652.

³⁷ Ibid., iv, 1946.

partly, to make the transaction look as unlike a business deal as possible and, partly, to keep on the right side of the canon law, which forbade the alienation of ecclesiastical property in perpetuity except in certain apostolically-sanctioned circumstances. At the same time, the stated reasons for feuing throw an interesting light not only on the nominal commitments of the granters but also on the prevailing social and economic conditions.

High on the list of financial commitments which appear among reasons for feuing is that of repair and upkeep of the fabric of churches and monasteries, although we are led to believe that this responsibility was frequently neglected in the sixteenth century. It was not entirely neglected, however. Most surviving accounts of bishoprics and monastic houses contain sufficient details of payments to workmen and the purchase of building materials to suggest that, at least, running repairs and routine maintenance were kept going. Some houses, such as Coupar Angus, paid regularly contracted workmen and craftsmen who seem to have served the abbey for considerable periods. Abbot George Shaw of Paisley, while he was granting feu charters of the burgh lands to his burgesses, embarked on an extensive building programme at the abbey, King James IV paying him a visit while the work was in progress.³⁸ The rental of Dunkeld shows bishop George Brown and his canons attending to the fabric of the cathedral and to that of the prebendal manses.

Nevertheless, in some places upkeep of the fabric was certainly

³⁸ J.C. Lees, The Abbey of Paisley, 141-2.

neglected. The monks of Melrose complained to the unsympathetic commendator, James Stewart, about the pitiful condition of their living accommodation, kitchen and offices through neglect 'throcht inlak of the samyn the conventuale observance and ordinar ar nocht kepit', adding that 'without the kirk be repairit this instant sommer God service will cease in winter.'³⁹ The more ruinous a building, the greater excuse the superior had for accepting a large sum of money for its repair and, consequently, for granting a feu charter to the person concerned. If we are to believe the following description of Kilwinning in July 1559, conditions there were as bad as those at Melrose; in granting a charter the commendator received sums of money for repair 'and restoration of the said monastery, and of the houses, dormitory and refectory of the regulars of the same, being ruined from the foundation to the top.'⁴⁰ It is extremely doubtful if Gavin Hamilton intended to expend his 'sums of money' on the living accommodation of the brethren in the summer of 1559. In 106 charters there is mention of money which had been handed over to the granter for repair of the property concerned.

Describing the sack of Scone abbey in June 1559 John Knox wrote, 'the multitude easily enflamed, gave the alarm, and so was that abbey and palace appointed to sackage; in doing whereof they took no long deliberation, but committed the whole to the merciment of fire; whereat no small number of us were offended, that patiently could not

³⁹ Melrose Regality Records, iii, 218.

⁴⁰ Archaeological and Historical Collections of Ayr and Wigton, i, 216.

speak to any that were of Dundee or Saint Johnston.⁴¹ Between August 1559 and November 1566 bishop Patrick Hepburn, as commendator of Scone, granted 18 charters in which he acknowledged receipt of money for repairs to the damaged monastery, amounting in all to over £2,800. In addition to this he received just over £2,000 for other charters in which the actual destination of the money is not given. It is a remarkable fact that Hepburn granted only one feu of Scone lands before the abbey was sacked. One cannot help thinking that John Knox would have saved himself the trouble of defending the bishop's 'girnell' on the night of the looting could he have foreseen the fortune which the rascally bishop was going to make out of the incident! It is doubtful if much of this money was actually used to repair the damaged property. At any rate, in 1570, in granting a pension of £16 annually to the aged prior of the monastery, Henry Abercrombie, the commendator recounted how the senior member of the convent had had to rebuild his own chamber and yard and make the former habitable at his own expense: reading between the lines of this grant, which reads like the pleasant account of a typical retiral presentation, it seems, rather, to record the result of the prior's attempt to recoup himself for a financial outlay which was really the responsibility of the commendator. One wonders how his fellow canons fared in their chambers 'quhilkis ... wes haillelie spoliit, ruinat and distroyit the tyme of the destruction of our said place.'⁴²

41 W. Croft Dickinson, ed., Knox's History of the Reformation, i, 191.

42 Liber Ecclesie de Scon, 210-11 (Bannatyne Club).

Nine charters of Newbattle abbey lands were granted, in return for 'money to repair the monastery', by Mark Kerr soon after he came into effective possession of the property just on the eve of the Reformation. In some cases money was given for the repair of parish kirks; the kirklands of Dalry, in Ayrshire, and of Cockpen, in Midlothian, were feued in return for 'sums of money' paid for their repair to the vicar pensioner and perpetual vicar respectively.⁴³ Even more laudable, if their intentions were genuine, were the actions of the archdeacon of Moray in granting a charter for money to repair the parish churches of Forres and Edinkellie for which he was responsible,⁴⁴ and of Mr Robert Hamilton, canon of Aberdeen, and Mr Thomas Ros, canon of Ross, who received money to repair the kirks of Kincardine o'Neill and Alnes of which they were the respective parsons.⁴⁵ There is mention of repairs to the manses of a number of prebendaries, to the cathedrals of Kirkwall, Elgin and Dunkeld,⁴⁶ to the 'abbot's house' at Kinloss, Culross and Coupar Angus⁴⁷ and to a number of monastic 'places', including 300 merks to repair the buildings of the nunnery of Elcho.⁴⁸ In the Spring and Autumn of 1577 the earl of Morton received feus of large tracts of land in Peeblesshire from the bishop of Glasgow in return for money to repair the cathedral.⁴⁹ That the great church was in need of repair towards the end of the

⁴³ Register of the Great Seal, iv, 2858, 3018.

⁴⁴ Ibid., iv, 2681.

⁴⁵ Ibid., iii, 2024, iv, 1744.

⁴⁶ Ibid., iii, 2264, 2882, iv, 2679.

⁴⁷ Ibid., iv, 1809, 2469, v, 1126.

⁴⁸ Ibid., iii, 2746.

⁴⁹ Ibid., iv, 2727, 2764.

century is indicated by a gift of King James VI under the privy seal, in 1581, by which he granted certain annualrents to the burgh of Glasgow towards the maintenance of the cathedral fabric. In what must surely be one of the earliest government grants towards the upkeep of an ancient monument, still in current use, the king described the cathedral as 'ane magnifik work and bigging and ane greit ornament to this realme':⁵⁰ it is certainly not the description of 'a monument of idolatry'.

No doubt a variety of economic crises lie behind many charters which remain silent as to the circumstances of their granting but the following examples may be useful in helping to fill in the contemporary background.

Sometimes it is merely stated that the feu is granted in order to increase the rental. In January 1506/7, for example, the abbot of Balmerino, 'in order to increase the rental of the monastery', feued the lands of Petgormo to Hugh Moncrieff, son of the laird of that ilk;⁵¹ the rent of these lands, which had previously been valued at £20, was raised to £24 with the addition of 15 capons at Easter. Feuing was a solution to other problems of estate management. In May 1500 the prior and convent of Pluscarden were feeling the financial effects of having 'conquest' the barony of Fochaber. In order to recoup themselves they set the entire barony in feu to Robert Murray who had contributed £5 towards the acquisition of the western part of

⁵⁰ Register of the Privy Seal, xlviil, f.112.

⁵¹ Register of the Great Seal, ii, 3081.

the barony and 200 merks towards the redemption of the eastern half.⁵²
 The whole acquisition may have been undertaken on the understanding that the feu would go to Murray in return for his expense and trouble.

In four charters dated 1561 Robert Crichton, bishop of Dunkeld, referred to the fact that, for the past three years, he had been unable to collect his rents from 'his ungrateful tenants': he had, evidently, decided to leave it to a feuar to do so.⁵³ In the 'assumption' of the bishopric of Dunkeld the teinds of four parish kirks were said to be in the hands of the parishioners while of a number of others it was said, 'of the foresaid kirks the bishop hes gottin nay payment thir divers yeiris bygane.' The archdeacon of Dunkeld, who held the vicarage of Logiealloche, reported, 'the parochinaris will not anser me of ane plak of the said vicarage.'⁵⁴ It is possible that bishop Crichton, who remained conservative in religion and ended his days living in two rooms of a house belonging to St Thomas's hospital in Edinburgh,⁵⁵ having been deprived of his bishopric, may have experienced a measure of opposition in his diocese on the eve of the Reformation-rebellion.

In February 1533/4 abbot Robert Bellenden of Holyrood feued the lands of Little Saltcoats in the abbey's barony of Kerse, in Stirlingshire, to William Wotherspoon, a burges of Linlithgow, in return for £200 and because the lands were being flooded by the rivers Carron and

⁵² Register of the Great Seal, ii, 2537.

⁵³ Ibid., iv, 2108, 2119, 2493; v, 1211.

⁵⁴ Rentale Dunkeldense, 340-1, 348.

⁵⁵ Register of Feu Charters of Kirklands, ii, f.280.

Forth.⁵⁶ Wotherspoon, who had paid a sum of money to the abbot's predecessor in 1527, for a 19 year lease of the lands, would doubtless expect to benefit from any land reclamation which he might undertake. The problem of redeveloping waste land was solved by the abbot of Lindores in 1565 by his granting them in feu to his kinsman John Philip of Ormestoun and his wife.⁵⁷ The land in question was the Whitepark of Lindores which is described in the charter as 'tunc solum inculta sed omnino sibi onerosa, proficuum adferrent, et ut annui stipendii solutione pro eorum custodia seu potius vastatione liberarentur.' In this case the feuar was given liberty to remove the trees and turn the area over to arable land. An even bleaker picture is drawn, in 1569, of the kirklands of Erroll which, although they were said to have two 'occupants' - probably in the sense of leaseholders - were, at the same time, described as 'waste and vacated by the inhabitants' in the preamble to a charter granted by the commendator of the Charterhouse at Perth to Peter Hay of Meginche.⁵⁸

Charters were occasionally granted to friends of clergy who had helped them out of financial difficulties. In 1573 the vicars choral and chaplains of Aberdeen cathedral, with their 'collector' feued various crofts in the burgh to Mr Robert Lumsden of Clovay for 300 merks, 'for his defence in collecting annual rents' and 'signanter propter magnam sterilitatem infrascript [arum] terrarum.'⁵⁹ In 1564

⁵⁶ Register of the Great Seal, iii, 3016.

⁵⁷ Ibid., iv, 2394.

⁵⁸ Ibid., iv, 1911.

⁵⁹ Ibid., iv, 2313.

one of the chaplains of St Giles' kirk, Edinburgh, feued his tenement of land in the burgh to Francis Lynton, a prominent burgess, because the patrimony of his chaplainry had diminished and he could not repair the property without considerable expense.⁶⁰ Two clergy, the provost of Kirk o' Field, collegiate church, Robert Balfour,⁶¹ and David Moresoun,⁶² chaplain of St Mary of Inver in Dunkeld cathedral, granted charters in return for money to help pay the 'third' of their benefices.

When we come to look at the economic assets of lands set in feu ferme and at cases in which permission is given for agricultural or industrial development, it will be apparent that a number of superiors - both before and after the Reformation - used the feu charter as a means of shifting the burden of estate management on to the shoulders of those who were willing to pay for long-term profits. This situation is neatly put in the preamble to the charter of the 'place of the monastery of Balmerino, houses, buildings, yards, orchards and woods, with the fruits, rents, offerings, teinds and duties of the baronies of Balmerino, Pitgorno and Barry,' granted in May 1565 by the commendator to John Kynneir of that ilk because the former was 'unable to lift the fruits and rents of the abbacy or conduct the business, being continually in the Queen's service and because the convent are unable to do so from age and infirmity, and in order to ensure the regular collection of the fruits and the obedience of the tenants and occupiers.' Kynneir paid 100 merks for his charter and a feu-duty of

60 Register of the Great Seal, iv, 1611.

61 Ibid., iv, 2805.

62 Ibid., v, 1189.

900 merks, obliging himself to pay the monks' portions and allow them to keep their chambers and yards.⁶³

From the year 1543 onwards 20 charters make mention of war-damage done by the English armies and of money received from feuars which was, nominally, earmarked for repairs. As we might expect, the houses and churches concerned are those on the invasion routes or at places where fighting took place in the 1540s: the abbeys of Melrose, Jedburgh, Kelso, Newbattle and Inchcolm, the nunneries of Coldstream and St Bathan's, Bolton parish church and the collegiate church of Restalrig.

On 27 April 1543 and 10 March 1543/4, shortly before he resigned office, abbot Richard of Inchcolm feued the barony of Beath in Fife and considerable portions of the abbey's lands in Midlothian to James Stewart, brother of Lord Avandale and father of the future lord St Colm. On each occasion Stewart gave the abbot money to repair the monastery which had been damaged by the English in 1542.⁶⁴ In November 1545 the dean of Restalrig, in granting a charter to his brother, Arthur Sinclair, acknowledged the latter's help in defending the ornaments of the church during the time that the English had been in Edinburgh and Leith in the previous year.⁶⁵ The vicar of Bolton parish church received £60 in January 1553/4 to repair war-damage to the church.⁶⁶

⁶³ Register House Charters: RH 6/1990.

⁶⁴ Register of the Great Seal, iii, 2915, 2999.

⁶⁵ Ibid., iii, 3312.

⁶⁶ Ibid., iv, 2532.

We must regard the formula 'for money to repair damage done by the English' largely as the current excuse for feuing seized on by the granters: after all, one wonders how much damage could have been repaired with the, presumably, smallish sums of money handed over to the commendator of Coldingham by the tenant of a few husbandlands in Eyemouth or to the prioress of St Bathans by Robert Sleich, a kindly tenant of two acres in the town of Duns.⁶⁷ Moreover, when the depredations of the English are used as a pretext for feuing vast tracts of the lands of Kelso abbey to the earl of Moray in 1569⁶⁸ the excuse does seem to be a little out of date, or the repairs to be somewhat overdue! It is more likely that the £4,000 handed over by the regent were kept in trust for his youthful nephew, the commendator Francis Stewart. In 1547 Sir William Hamilton of Sanquhar, who administered the affairs of the monastery of Melrose on behalf of the young royal commendator, James Stewart, received a feu charter from the latter in return for his 'great labours' in defending the whole church of Scotland and especially the monastery in time of war.⁶⁹ Hamilton had, at the same time, been a member of the diplomatic mission who arranged with Henry VIII of England in 1543 for the marriage of Queen Mary and Prince Edward.

References to the disturbances of the civil war period are found in charters granted in 1568 and 1573. In the first, issued from the castle of Dunbarton on 20 July 1568, Archbishop John Hamilton

⁶⁷ Register of the Great Seal, iv, 1613, 1614.

⁶⁸ Ibid., iv, 1905.

⁶⁹ Ibid., iv, 159.

acknowledged the receipt of money 'tempore turbulento' from Alexander Cunningham of Cragens,⁷⁰ while in the second, the provost and prebendaries of Crichton collegiate church feued some of their property in the burgh of Edinburgh because their collectors had been unable to uplift the annuals: 'quia recentium calamitatum occasione infra burgum de Edinburgh nec minus negligentia collectorum, domicilii subscripti non solum fenestre et ostia effracte et sublate, fuerunt, veruntamen tectum alieque eiusdem partes ruinam spectaverunt.'⁷¹

While war damage is always mentioned in the charters in connection with the fabric of churches and monasteries, a number of ecclesiastical establishments must have suffered loss of income through the burning of crops and dislocation of agriculture generally, a state of affairs which must have occasioned many feu charters.

The business-like accounts of the systematic havoc wreaked by the earl of Hertford's troops in the 1540s are well known. In June 1544 Coldingham priory was burned by the invaders and a few months later housed an English garrison. The following year the English army sacked and burned a total of 287 religious houses, market towns, villages, mills and 'hospitals'. The disruption of everyday life in parts of the border, in Berwickshire, East Lothian and along the Fife coast must have been appalling. Another severe attack, as a prelude to the battle of Pinkie, came in 1547. As it happens, there have survived - miraculously - four little 'teind books' belonging to

⁷⁰ Register of the Great Seal, iv, 2411.

⁷¹ Ibid., iv, 2169.

Coldingham priory covering the years 1543 to 1547.⁷² The chamberlain had to cope with depredations other than those of the English for, in 1545, he noted in his book, 'master Johne Howm sowne to the abbot of Jedwart come to coldingayme wyth hys compleseys and tuk fra me tua thowsand marks wyrth of stowf quhyllk I sall sefechantly pref.' In his accounts of the 1547 crop there are vivid instances of how the machinery of the priory's business was kept running, even in the midst of war: 'Item, fra the lady of Fastcastell in wheat and deliverit to Sym Pennango to saw in the northfield - 4 bolls', and 'fra the laird of Bylle and deliverit to the curat be ane precept of my master - 12 bolls', 'to George Gray, offisir - 4 bolls'. Above the entry for West Reston is written, 'West Restoun, considerit wyth honest men efter the Inglis armye campit in it and in the pendikkells therabout.' Some idea of the devastation around the priory is given in the following table which has been prepared from an abstract of the teind books. In order to give the amounts in round figures, the total teinds from individual parishes have been reduced to firlots:

The teinds of Coldingham priory received between 1543-1547	Victual given in firlots	
	1543	11,013
(the 1546 crop shows an almost 58% drop on that of 1543 but there was a slight recovery in 1547)	1544	7,746
	1545	7,044
	1546	4,667
	1547	6,524

72 Morton Papers: GD 150/1739 (S.R.O.).

A large number of charters were granted by the commendator of Coldingham in the 1550s, mostly of husbandlands and cotlands, and often to the sitting tenants. On the other hand, there is no noticeably large number of charters, in this period, for Balmerino abbey which also suffered heavily from the English invasions.

The growth of the reform movement must have caused ecclesiastical property owners as much concern as did the effects of recurrent English invasions. Reformation, even at its most 'political' in the actions of Henry VIII of England, made the Scottish hierarchy nervous lest James V should copy his uncle and lay hands directly on the church's property. Archbishop Spottiswood quotes Lindsay of Pitscottie as saying, 'the bishops conceived in their minds that if King Henry met with our king, he would cause him to cast down the abbeys of Scotland as he [Henry] had done in England. Therefore, they budded [bribed] the king to bide at home and gave him three thousand pounds a year to sustain his house from their benefices.'⁷³ While Cardinal Betoun was in France in 1541 James V considered an invitation to meet his uncle at York,

'Bot our prelati nor I wald never consent

That he sulde se Kyng Harye in the face;'⁷⁴

In the early 1540s several Scottish bishops held the revenues of a number of rich abbeys 'in commendam'.

⁷³ J. Spottiswood, History of the Affairs of Church and State, i, 45.

⁷⁴ Sir David Lindsay, The Tragedie of the Cardinall, 210 (E.E.T.S.).

The feu charters which the Cardinal, as archbishop of St Andrews, granted to influential nobles and lairds in the critical years preceding his assassination often allude to help 'against the Lutherans' and 'in defending the liberties of the church against Lutherans and other heretics', but they are really attempts to buy, or maintain, political support. A feu charter, however, was no better guarantee of a man's future actions and sympathies than a money bribe. Archibald, 4th earl of Argyll, to whom the Cardinal granted lands in the lordship of Muckartshire,⁷⁵ although he supported the anti-English campaign at the time, eventually went over to the Reformers and was one of those who invited John Knox to return to Scotland in 1557. The same change of allegiance was true of John, 4th lord Borthwick, and Patrick, 4th lord Gray, both of whom received feus of land belonging to the archbishopric.⁷⁶ An even more tragic waste of parchment was the charter granted in 1544 to the brother of Norman Leslie.⁷⁷ The feu charter granted in February 1546/7 by the commendator of Melrose to Walter Scott of Branksholm mentions 'his great labours on behalf of the catholic church in Scotland'.⁷⁸ Since Scott had been recently married to Janet Betoun, a kinswoman of the Cardinal, it is possible that the latter had helped to negotiate the grant of land before his death.

Several charters dating from about 1560 mention disturbances which must refer to conditions during the politico-religious crisis of 1558-

⁷⁵ Historical MSS Commission, Report iv, 484.

⁷⁶ Register of the Great Seal, iii, 2985; iv, 3029.

⁷⁷ Ibid., iii, 2662.

⁷⁸ Ibid., iv, 2319.

1560. In January 1558/9, six months before the sack of Scone, the elderly abbot of Coupar Angus, Donald Campbell, who was soon to prove amenable to the proposed changes of 1560, spoke about help which he had received from Thomas Kennedy, fiar of Coiff, against 'the insults of many lay magnates and their inferiors of the realm of Scotland opposing in those days the catholic faith and destroying many sacred places in various neighbouring parts.'⁷⁹ It is possible that the religiously-conservative Robert Crichton, bishop of Dunkeld, was referring to genuine moral and financial support when he referred, in January 1565/6, to 'great and necessary assistance to him and on behalf of the liberty of the church',⁸⁰ from Mr Robert Crichton of Elick the queen's advocate who, shortly before then, had been employed by the queen as a negotiator with the rebel lords.

It is difficult to regard as other than the necessary pious jargon the words '*pro summa pecunie persoluta pro ecclesiastica libertate preservanda illis periculosus Lutheranisque diebus*',⁸¹ in a charter granted in April 1560 by William Colville, commendator of Culross, to his nephew James Colville since both were supporters of the Reformation and we know that Robert Colville of Cleish, James's brother, who witnessed the charter, was killed a month later, fighting against the French at the seige of Leith.

In April 1560 Alexander Bannerman of Wattertown gave Walter Reid, abbot of Kinloss, 500 merks to help compensate for the theft of 'fruits

⁷⁹ Register of the Great Seal, iv, 1380.

⁸⁰ Ibid., iv, 2495.

⁸¹ Ibid., iv, 1632.

and goods of the abbey' said to have been taken 'in time of war'.⁸²
 This was not the last attack on the abbey at this time. In June 1560 Patrick Dunbar, sheriff of Elgin and Moray, with his son and Andrew Buk, a burgess of Aberdeen who had recently acquired the lands of Murthill and Corthymure in feu from bishop William Gordon, broke into the church, domestic buildings and offices at Kinloss and carried off 'bellis, hersis, pillararis, standing chanlaris, lettronis and other brazen work' as well as several lasts of salmon from the 'fish-house' beside the river Findhorn. The following November they returned to take away victual and other goods in kind which had been stored in the granaries since the last harvest.⁸³

Among the more personal and local situations which lie behind the granting of some feu charters are a handful of cases of hardship which were the direct result of the events of the Reformation-rebellion and in two of which reference is actually made to the break-up of Friaries and dispersal of the inmates. Knox says that, about the time Scone abbey was burned, the earl of Argyll and the Lord James rode to Stirling to intercept the troops which the Queen Regent had dispatched there 'before whose coming the rascal multitude put hands in the thieves', I should say friars', places and utterly destroyed them.⁸⁴ On 12 September following, the prior of the Stirling Dominicans, Andrew

⁸² Register of the Great Seal, iv, 1647.

⁸³ Register of Acts and Decrees, xxviii, ff.50-50v.

⁸⁴ W. Croft Dickinson, ed., Knox's History of the Reformation, i, 191-2.

Makneill, feued the lands of Dalgonagane to his brother, John Makneill, burgess of the Canongate 'for 85 merks for sustentation of the prior after his violent ejection from the house and the demolition of the place.'⁸⁵ In November 1560 the Glasgow Black Friars granted 'a great tenement' in the city to John Graham, 'because the place of the Order has become broken up and the brothers dispersed during times of trouble and danger and because John Graham, burgess of Glasgow, ministered to them in their necessity and extremity.' The following provision, added to the text of the charter, reflects the flicker of optimism among conservatives in the winter of 1560, 'if the Order is reconstituted and the brothers return they are to be re-instated in their rights over the gardens of the house, John retaining possession of these for 3 merks per annum.'⁸⁶ The grantee can probably be identified with the John Graham who was prosecuted for allowing sir William Herbertson to celebrate mass in his house at Easter 1563;⁸⁷ one of the men who was detailed to give Graham sasine of the property in 1560 was George Herbertson, a member of this prominent recusant Glasgow family.

The inmates of friaries must have lived in a state of constant apprehensiveness in the months before and after the appearance of the Beggars' Summons: one night the Black Friars of Edinburgh heard stones hitting against their windows, thrown, it was later discovered, by a probably bored but antagonistic watchman. The Edinburgh friars, it was said, dispersed their moveables among their acquaintances. By

85 Register of the Great Seal, iv, 1373.

86 Ibid., iv, 1790.

87 R. Pitcairn, Ancient Criminal Trials in Scotland, i, pt.i, *427.

granting feus of the property to friends and relatives the priors and convents, in addition to receiving a lump sum which could be kept for emergency, would be more certain of the regular payment of feu-duty in the future.

In 1564 the stallers of Glasgow cathedral feued their lands in the city to Mr Michael Chisholm for money received 'illo tempore tumultuoso'.⁸⁸ Seven years after the Reformation, Christian Bellenden, prioress of Sciennes, then living with her relatives at Warriston, granted 18 acres of arable land to Henry Kincaid (probably her nephew) for money given to her and to the remaining sisters of the convent, 'immediately after the destruction of the place and their dispersal, in poverty, among friends and relatives'.⁸⁹ Acknowledgments of financial and other help are made by the brethren of St Anthony's Preceptory in Leith,⁹⁰ by the commendator of Elcho priory⁹¹ and by the commendator and convent of Glenluce, to whom the earl of Cassillis, the abbey bailie, gave £10,000 for a grant of virtually the whole abbey lands.⁹²

Alexander Gordon, bishop of Galloway, as commendator of Tongland abbey, Adam Bothwell, bishop of Orkney, Leonard Leslie, commendator of Coupar Angus, and Mr Robert Erskine, dean of Aberdeen, received money, ostensibly in order to defray expenses connected with provision to

88 Register of the Great Seal, iv, 1629.

89 Ibid., iv, 1980.

90 Ibid., iv, 1959.

91 Ibid., iv, 1939.

92 Ibid., iv, 2202.

their benefices.⁹³ Alexander Gordon must have run up a considerable bill at the Roman Curia, having been involved in provision to no less than four bishoprics and three commendatory abbacies since 1544. The charter by commendator Alan Stewart of Crossraguel, in which he speaks of support from David Kennedy of Balserroch 'in these more than perilous times', was probably a desperate attempt to secure the goodwill of a Kennedy laird at a time when the earl of Cassillis was making things difficult for him in Carrick.⁹⁴ The post-Reformation holder of the prebend of Logie in Dunblane cathedral, Robert Seytoun, granted a charter, in 1567, with consent of his father and administrator, Walter Seytoun of Tullybody, in return for money to be used partly 'for his education at the schools'.⁹⁵ Legal expenses occasionally figure in the preambles to charters. Mr James McGill, later Clerk Register, had acted as advocate on behalf of Dundrennan abbey before the end of 1543, when the abbot granted him a charter.⁹⁶ In 1507 the abbot of Balmerino recorded his indebtedness to Hugh Moncrieff, son of Moncrieff of that Ilk, 'for his help in his case against John Evyot of Balhousy over certain fishings in the river Tay'.⁹⁷ Some ecclesiastics and commendators must have spent a veritable fortune in the 'guid ganging pleas' which they sustained year after year in the courts when, in addition to the advocates' fees, there were travelling expenses and lodgings in Edinburgh to be paid for when they chose to

93 Register of the Great Seal, iii, 2973; iv, 1668, 1719, 1809.

94 Historical and Archaeological Collections of Ayr and Wigton, xiii, 57.

95 Register of the Great Seal, iv, 2378.

96 Ibid., iii, 3106.

97 Ibid., ii, 3081.

appear in person during the case, as many of them did.

In 1536 the bishop of Galloway, as commendator of Tongland abbey, solved a difficult, local problem by giving a feu of the lands of Donjop to John Eschennan, who already held them on a 19 year lease, 'because the lands aftermentioned are near to the Thieves' Way by which common thieves and rebels have been in use to get access to the barony of Tongland and carry away the goods and cattle of the tenants and for erection on the lands of a tower or house by him (the grantee).'⁹⁸

The wheel seems to have come full circle when we read the text of the charter granted in February 1564/5 by Thomas Young, prior of the Carmelite friary at South Queensferry, to the local laird, George Dundas of that Ilk.⁹⁹ By then the prior was being cared for in his 'great poverty and old age' by the laird's family at the castle of Dundas and, in gratitude, feued him certain lands in the barony of Winchburgh 'because George's predecessors had given the lands to the friary in free and perpetual alms.' It is almost as though Dundas is claiming a 'right' to the feu. While King James VI, who regarded the lands given long ago to 'haly kirk' as, originally, his patrimony, recovered the superiority over them by his act of Annexation in 1587, many of the descendants of those tenants-in-chief who had made territorial donations to the church regarded themselves as having some kind of right to recovery of the 'property' of these lands. In some sense the feuing of the kirklands was the long-drawn out disendowment

⁹⁸ Register House Charters: RH 6/1132.

⁹⁹ Register of the Great Seal, iv, 1607.

of the medieval church.

If that were all it amounted to, however, the feuing movement would scarcely merit the central place which it claims in an era of social change, such as that of sixteenth century Scotland. The fact is, as we shall discover when further analysis of the process has been made, that as the kirklands were secularised, as they returned to lay hands, they did not always fall to the descendants of those who were of the 'landed classes', in the narrow sense, in the 'age of faith' - whenever that might have been - when men gave their lands to the church for the good of their souls. In the sixteenth century, particularly, kirklands were feued to many Scotsmen whose forbears in the not so very remote past had been fairly humble peasant farmers, or simply peasants. It is the creation of this big wedge of new proprietors, drawn from the rural population and from the townsmen and professional classes, which partly constitutes the social revolution of the sixteenth century. It is very significant that this should have been accompanied by a revolution of the bases of religious life.

In the present section we have taken account of some of the ways in which the process, which was bringing about a gradual change in the structure of society, was accelerated. We shall look next at the attitude towards it of public authority, ecclesiastical and secular, and at the means by which these bodies attempted to control it in their own interests.

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The act of parliament of February 1457/8 which was designed to

encourage the feuing of land was, at the same time, an attempt to bring under Crown control a process which had already begun. Perhaps the most significant clause in this statute is, 'our soverane lord sall ratify and appreif the said assedacioun.' Crown confirmation, if it could be rendered compulsory, would mean royal control over the disposition of ecclesiastical as well as secular property. The act goes on to ordain that when a feuar's lands were in ward the feu-duty was to be paid to the king: 'the said tenande sall remane with his feuferme unremovyt payande to the king siklik ferme endurande the warde as he did to the lord.'

There is not much evidence that feuars of kirklands applied for Crown confirmation during the second half of the fifteenth century, though the Register of the Great Seal is incomplete in places during that period. In February 1463/4 the Council of Regency for the young James III issued a mandate to Patrick, bishop of Brechin, calling on him to revoke all alienations of land made by his predecessors which had been granted unjustly and without the excuse of 'urgent necessity'.¹⁰⁰ Two entries in the episcopal register of Brechin suggest that to some extent the mandate was ignored. On 10 September 1457, only a few months before the act of parliament 'anent feu ferme', the bishop had granted to John Williamson, dyer, a feu charter of two tenements of land in Brechin which were confirmed to Williamson by the bishop's successor in April 1471: the property was then known as the 'Litsters-

¹⁰⁰ Register of the Great Seal, ii, 785.

land', having been in John's possession for a long time.¹⁰¹ In the fifteenth century at least 14 charters of kirklands are known to have been granted before the act of parliament and 31 after it, only three of which appear to have been confirmed before the end of the century.¹⁰² None of the 42 Paisley charters granted by abbot George Shaw in the 1490s was confirmed, then or later. In 1469 there was confirmed in the king's name a charter granted only a few months previously by the provost of Bothwell Collegiate church, Gavin Hamilton, with the consent of lord Hamilton, the patron.¹⁰³ It is possible that the Hamiltons, who had had a somewhat difficult time in the reign of James II, but who were once more in the ascendant, were 'playing safe' with the government. As far as the matter of Crown confirmation was concerned, the act of 1458 'anent feu ferme' was largely ineffective with regard to the feuing of kirklands.

The attempt by the Crown to regulate the disposition of church property was but one aspect of the continuous efforts of the Scottish kings to reduce the extent of Papal authority within their kingdom, efforts which finally achieved the grant of the Indult of 1487 and the vital concessions with regard to ecclesiastical appointments conceded to James V by the Papacy in the 1530s. Since the alienation of church property in perpetuity was against canon law the right to grant ultimate confirmation, in approved circumstances, lay, in theory at least, with the Pope himself or with those to whom he chose to delegate

101 Registrum Episcopatus Brechinensis, no. 226.

102 Register of the Great Seal, ii, 985, 2175, 2354.

103 Ibid., ii, 985.

the necessary authority. It would seem, however, that in practice the 'haly fader' fared little better than the king of Scots in the matter.

Several factors militated against resort to Rome for confirmation. In the first place, the cost would be prohibitive for all but the richest feuars. Secondly, it is clear that the need to do so was not emphasised by the clergy themselves whose business it was, after all, to remind the faithful of their duty. If an expensive papal confirmation had been an absolute necessity, many people would never have taken feus at all: to minimise this theoretical obligation was to make church land a more marketable commodity, as far as the clergy were concerned. In one or two charters what can only be called 'lip-service' is paid to the advisability of obtaining papal ratification. In March 1537/8 the abbot of Lindores stated, at the end of a charter, that he and the convent consented to its submission for confirmation by the feuar 'in Romana curia vel extra ubi facilius haberi posset'.¹⁰⁴ Occurring as it does at the end of the charter, this clause resembles the 'clause of consent to registration' written at the end of legal documents. As we know, many legal deeds were registered only when they were about to be challenged, since many people preferred to postpone the registration fee until it was an imminent necessity. Similarly, feu charters may only have been presented for papal confirmation - which, from the Pope's point of view, was a sort of 'warrandice' - when they were about to be challenged. After all, if the Pope could be induced

¹⁰⁴ Register of the Great Seal, iii, 2636.

to condone feuing in principle there was scarcely any need for him to confirm individual charters.

On the other hand, there is evidence that some people did send to Rome for confirmations. One of the complaints handed in to the Queen Regent in 1559 by 'sum temporall lordis and barronis' and forwarded by her to the Provincial Council of the church, then in session, was on behalf of those feuars who were finding it inconvenient, so it was alleged, to defend their possession of kirklands in the papal courts.¹⁰⁵ Since it is difficult to envisage how the Pope could be expected to 'warrant', as it were, those feuars who had not obtained his confirmation in the first place, it infers that a number of people had, in fact, done so. On 27 March 1540 James Ross, called 'a servant of the king', and Margaret Stewart, his wife, received a feu charter of the lands of Arlington from the commendator of Scone. On the 3rd of the following August the Pope, through his legate, sent a commission to the archdeacon of Teviotdale, the dean of Restalrig and the provost of Methven asking them to examine and confirm the charter: it was another two years before the final decret, following on the commission's report, was issued.¹⁰⁶ In February 1538/9 David Wood of Craig, in receiving a feu charter of Arbroath abbey lands from Cardinal Betoun, was given three years in which to obtain papal confirmation.¹⁰⁷

The alternative to this cumbersome and expensive procedure was the grant by the Pope of the powers of legate a latere to a Scottish

105 D. Patrick, Statutes of the Scottish Church, 159.

106 Lindsay of Dowhill Papers: GD 254/409.

107 Register of the Great Seal, iii, 2741.

churchman. To this end King James V petitioned Pope Paul III on behalf of Cardinal Betoun, as did the Cardinal himself, but the Pope, whose predecessor had had to cope with the revolt of Henry VIII of England and had given enormous concessions to the Scottish king, did not grant the powers while James V was alive. A ratification of a feu charter on a commission from the Legate a latere was itself costly enough and may, on occasion, have taken almost as long as the 'old style' papal confirmation.

In the case of small feus the granter may, on occasion, have undertaken the expense of confirmation and 'passed it on' to the feuar - to use commercial terms - in the grassum or down-payment. In the contract drawn up between the commendator of Melrose and the tenants of Kylesmure on 4 May 1555, it was arranged that the former should pay the composition for Crown confirmation and 'inlikewys fra the court of Rome direct to certane delugats for confirming of the said feu',¹⁰⁸ the 'delugats' in question being Archbishop Hamilton, who was made Legate a latere in 1552, and the commissioners appointed by him. From these provisions it would seem that where a large number of feus were granted together one Crown and one Papal confirmation were sufficient. This would explain why, in the Register of the Privy Seal and, less frequently, in the Register of the Great Seal, feus of small pieces of land in one area are often confirmed in batches, in the one entry. In the Kylesmure contract it was also laid down, however, that the tenants themselves would pay the fees of the notaries and other writers

¹⁰⁸ Morton Papers: GD 150 Box 54, 4 May 1555.

of the necessary documents.

Legatine confirmations were lengthy affairs, reciting as they did the texts of all relevant writs. The confirmation by three canons of Glasgow, as commissioners of Archbishop Hamilton, of a feu charter granted in 1557 by the commendator of Kilwinning to Alexander Tarbart runs to 506 lines in modern print.¹⁰⁹ This particular document is an instance of a combined confirmation, on Legatine authority, of a large number of individual charters. The report of the commissioners recites how that, in the first instance, a petition for confirmation had been addressed to the archbishop 'incolarum, habitantium et colonorum' of the barony and lands of Kilwinning, Beith and Lyandcross among whom these lands had been entirely set in feu. A joint petition may mean that the tenants shared the expense of the Legatine confirmation among them. But while they may have shared the general expense, the form of the document suggests that each tenant paid separately for his own copy of the notarially executed document embodying the report of the commissioners: the copy belonging to Alexander Tarbart, who received a feu of part of Corshill, happens to be that which has survived, reciting the text of his charter and instrument of sasine.

Not only was the archbishop, as Legate a latere, given power to confirm alienations of church land if proved to be 'in evident utility', but also to initially authorise any qualified person 'to exchange immovable property of monasteries, dignities, parsonages ... to give

¹⁰⁹ Archaeological and Historical Collections of Ayr and Wigton, i, 203-16.

long leases or to feu when evident advantage is shown after cognition.'¹¹⁰ The number of Crown confirmations of ecclesiastical feu charters grew steadily from the 1540s onwards and increased considerably in the decade before the Reformation. The abrogation of papal authority in 1560 left the Crown without a rival as far as confirmation was concerned.

In the military crisis of 1559-60 many ecclesiastics doubtless feued land primarily to obtain ready money in the event of personal necessity 'to ony persoun thai plesit without respect of preceiding ordour in sic caissis, quhairupoun greit hurt apperit to succed.'¹¹¹ In the post-Reformation records of parliament and privy council, a dividing line is drawn between feus granted before, and after, 8 March 1558/9, with references to feus 'alsweill of auld as new' and to 'lait set fewis'.¹¹² The first time this mysterious date is mentioned is in the parliament of December 1560, when it was laid down that no persons were to be removed, in the meantime, from kirklands feued since 8 March 1558/9.¹¹³ In parliament of 1564, however, there was mentioned an 'inhibition' issued, at a previous date, in the queen's name, against the feuing of kirklands, apparently in an attempt to halt the process until the government could take control of the situation.¹¹⁴ At first glance we might take this to be a reference to the act of December 1560, but that act was not concerned with

¹¹⁰ Warrender Papers, i, 25 (S.H.S.).

¹¹¹ Register of the Privy Council, ii, 643.

¹¹² A.P.S., iii, 35; Register of the Privy Council, i, 304, 320.

¹¹³ A.P.S., ii, 606.

¹¹⁴ Ibid., ii, 545.

halting feuing, but merely with protecting the inhabitants of lands feued since the month of March 1558/9. The wording of the 1564 passage seems to connect the 8 March 1558/9 with this 'inhibition' itself. It speaks of the many applications, to the queen, for confirmation of charters granted since 8 March 1558/9 'in tyme of troubill contrare the tenour of hir grace's letteris of inhibitioun publist and proclamit in divers parts of hir realme.' In other words, it suggests that the letters of inhibition were published while Queen Mary was still in France, which puts the responsibility for their initiation on the government of the Queen Regent. This theory is corroborated, except in one tantalising omission, in the details of a case which came before the Court of Session on 3 July 1564, in which the queen's advocate raised an action for reduction of a charter which he alleged had been granted since 'the inhibitioun put be our souverane ladie at Janwill (?Joinville) to kirkmen to set ony lands or rooms pertaining to their benefices in few.'¹¹⁵ Unfortunately, neither the alleged date of the charter nor the date of the 'inhibition' is given but the circumstances point to the latter's having been issued on 8 March 1558/9, especially if we take the advocate's assertion in conjunction with the act of the 1564 parliament. Oddly enough, the case came up again two years later, pursued this time by the new archdeacon of Brechin, whose predecessor was alleged to have granted the charter in question to his kinsman David Pitcairn. It was discovered that although it had been granted in something of a hurry,

¹¹⁵ Register of Acts and Decrees, xxxii, f.61.

without the bishop's consent, which rendered it liable to be annulled, it was dated 12 January 1557/8, more than a year before the queen's inhibition had come into force.¹¹⁶

The reason why Queen Mary should have been advised to issue letters of inhibition at that particular time is a separate question. At any rate, in the prevailing conditions, nationally and internationally, a widespread landslide in the delapidation of ecclesiastical property in Scotland was anticipated by the government. Two things are certain, the inhibition did not halt the feuing of kirklands and many of the 'lait set feus' were still unconfirmed almost twenty years later. In 1564 there were appointed compositors whose business it was to assess and charge the fees for confirmation which was to be looked upon as being as lawful as if granted at Rome, and which brought a much-needed increase in the royal revenues.¹¹⁷ Between January 1564/5 and June 1566 the Treasurer received £9,104 from these compositions.¹¹⁸ Yet, in spite of repeated attempts on the part of the government to make confirmation compulsory, including a warning in 1578 that in cases of contested possession of kirklands those charters which had been confirmed first would be recognised in the Courts,¹¹⁹ it could be said in 1584 that many charters, 'alsweill auld as new', had never been confirmed.¹²⁰ A deadline for submission to the Treasurer was announced, 1 September 1585, and in the preceding months, and again in 1586, there

116 Register of Acts and Decrees, xxxviii, f.68v.

117 Register of the Privy Council, i, 320.

118 Scottish Historical Review, xvi, 61.

119 A.P.S., iii, 103.

120 Ibid., iii, 351.

was a glut of confirmations. Some of the charters presented were of respectable antiquity, including a number from the fifteenth century and one dated 1394 - a tribute to the care with which some of our forefathers treated their archives!

As far as the attitude of public authority to the general methods of feuing was concerned, the pre-Reformation kirk and the post-Reformation parliament were at one in their concern that the kindly tenants should not be prejudiced in their possession and that the parochial manses and glebes should not be feued under any circumstances.¹²¹ As the detailed study of both subjects properly belongs to another section, it will be sufficient at this point to refer to the enactments of kirk and parliament on these questions.

In the case of the Provincial Councils, feuing of any kind was discouraged unless it was found to be 'in evident utility', in other words in augmentation of the rental: most churchmen kept well on the right side of the law in that respect. Some of them got round the obstacle of the canon law by laying the responsibility for the resort to feuing at the Pope's door, saying that they were forced to feu their lands in order to pay taxes which the apostolic see had granted to the king. If lands must be feued at all, the church decreed that they should be given to the tillers of the soil. If they had been set to tenants who later wished to resign them they must be feued a second time to others of the same, or 'lesser degree'. As to parish kirk-

¹²¹ D. Patrick, Statutes of the Scottish Church, 179-81; A.P.S., ii, 539-40, 606.

lands, these must not be feued under any condition, especially the glebes and manses: many a parish priest living on the bread-line whose glebe had been feued by the monastery to which his church was appropriated must have read the statutes of the church leaders with feelings of the utmost resentment, not to say insubordination! The majority of the acts of the Provincial Council read so like a set of self-denying ordinances - except where directed at the parish clergy - that they can only be regarded as pious ideals, though the acts in favour of the kindly tenants were well-meaning and would have rejoiced the heart of John the Commonweill, had he been able to read them.

Parliament and privy council, also, were concerned to protect the manses and glebes of the newly-commissioned, but poorly endowed, parish ministry from alienation, though it is a fact that some continued to be feued, on one or two occasions, by ministers once they had come into possession of them. In 1560 an act of parliament was passed to protect the 'auld possessouris' of kirklands feued during the panic of the immediately pre-Reformation period, in which it was stated that they were to be allowed to remain in possession for the next three years, during which time the government hoped to take firmer order in the matter. In all fairness it must be conceded that the attitude of public authority seems to have been a mixture of looking after its own interests and taking account of the predicament of those who were not always able to defend themselves.

As far as popular opinion was concerned, we have very little first hand account of how it reacted to the acceleration of the feuing

of kirklands. Sir David Lindsay is eminently quotable but his poetic licence inevitably included exaggeration of the facts and he often carries more than a suggestion of personal acrimony and 'sour grapes' into his caricatures of the ecclesiastical establishment. A considerable number of feuars, as we shall see, were beneath the status of the 'gearing gentillman', whose acquisition of feus Lindsay deplored in his 'Satyre of the Thrie Estaitis'.

Part Two

The Personnel

Part Two: The Personnel

Chapter Four

The Granters

Chapter Four

The Granters

Alienation of the kirklands involved all members of ecclesiastical property-owning corporations, individuals appearing either as granters of, or as consenting to, feu charters. It also involved the rights of patrons, royal, lay and clerical, and of administrators, coadjutors and iconomi who, for the time being, were acting with or on behalf of the superior. Charters were granted not only by bishops, abbots, priors, provosts of collegiate churches, priors and wardens of friaries and parsons but by other, sometimes lesser, clergy associated with the institutions of which they were themselves the administrative heads. The holder of any benefice, layman and cleric, might feu the temporalities connected to it.

The chronological pattern of the feu charters as granted by successive holders of a given prelacy or benefice is often uneven. A feuing programme by one incumbent did not necessarily mean that his successor followed his example, though we must allow here for the non-survival of documentary evidence. Some examples will illustrate the point.¹

For instance, two charters of the archbishopric of St Andrews date from the fifteenth century, granted by archbishop William Scheves. Interestingly enough, no charters granted in the names of the two royal

¹ It is impracticable to give references at this point other than those provided in the alphabetical list of Feuars (Appendix 2).

nominees to the see, James and Alexander Stewart, have come to light, although the period covered by their appointments, 1497-1513, saw a considerable amount of feuing on Crown lands in the stewartry of Fife and in Menteith and Ettrick Forest. There are 4 charters by Archbishop James Betoun, 29 by his nephew, David Betoun, and 57 by Archbishop John Hamilton, many of which date from the 1550s. After the Reformation 19 charters were granted by Archbishop Patrick Adamson but none by his predecessor John Douglas.

Of Glasgow it was stated in a papal bull of 1550 that Archbishop Gavin Dunbar had delapidated much of the property by granting it in feu-ferme but no charters by him have come to light in the sources consulted.² I have found no charters in the name of Archbishop James Betoun (ii) although a number of the cathedral clergy feued their own property in the 1560s.³ There are 52 charters by Archbishop James Boyd, including 37 dated 1581, his last year of office.

Feuing on the lands of the bishops of Moray began in the thirteenth century with 9 charters before 1400 and another 4 during the fifteenth century. There are no surviving charters by the first two sixteenth century bishops but Bishop Robert Shaw, formerly abbot of Paisley, granted 2 charters in as many years of office. No feus granted by his successor, Alexander Stewart (1529-37) have come to light but there are 48 in the name of Bishop Patrick Hepburn (1538-73).

In the case of Dunkeld there is 1 charter, dated 1510, by Bishop

² Registrum Episcopatus Glasguensis, no.510.

³ See Table opposite pages 161-2.

George Brown and 4, granted between 1539 and 1542, by Bishop George Crichton. Robert Crichton, who was deprived of his see in 1571 for his adherence to Catholicism, granted 23 charters before that date and 10 after his restoration in 1584. In the interval 22 were issued in the name of Bishop James Paton.

The number of charters granted by individual superiors of the monastic houses varies considerably. For example, there are no surviving charters of Scone abbey between the solitary grant by abbot James in 1505⁴ and the 131 granted by the mid-sixteenth century commendator, Patrick Hepburn, bishop of Moray, who, incidentally, holds the record for granting feu charters, with 179 to his credit. In the case of Kinloss, there is one charter by abbot Thomas Chrystal, one by commendator, bishop Robert Reid of Orkney,⁵ but 111 by commendator Walter Reid, dating mostly from the decade following the Reformation. There was a limit, of course, to the amount of land which could be feued and a rough limit to the number of feuars who could be squeezed on to it and, therefore, if one superior indulged in extensive alienation there might not be much left for his successors to feu. The feuing of Kilwinning regality, for example, culminated under the commendatorship of Gavin Hamilton in 80 charters being granted by him compared with 10 by a former superior, abbot Alexander Hamilton. As a result, the post-Reformation commendator of Kilwinning, Alexander Cunningham, merely transferred to his kinsmen some of the

⁴ Records of King James VI's hospital, Perth: GD 79/5/44 (S.R.O.).

⁵ Register of the Great Seal, v, 2323, 2113.

lands previously feued to Hamiltons while the grants to small tenants seem to have been mostly made by the time he took over in 1571. In the case of a small estate it was possible for one superior to feu most of it during his tenure of office, causing the number of charters to dwindle thereafter. This may have been true of Coldingham where 21 charters were granted before 1562 by the commendator John Stewart, 8 by John Maitland and 7 by Alexander Home. At Lindores, another comparatively small estate, 38 charters run in the name of abbot John Philp and only 6 in that of Patrick Leslie. In the case of some monasteries, however, there is a decided increase in feuing over the period. At Newbattle 22 charters were granted by the last, regular abbot, James Haswell, and 53 by the commendator, Mark Kerr. The last abbot and two commendators of Culross, John, William and Alexander Colville granted 14, 17 and 25 charters respectively. George Durie, the last pre-Reformation abbot of Dunfermline abbey, granted 24 charters and his nephew and successor, Robert Pitcairn, 47; five charters were given by the late-sixteenth century commendators of that house, all of whom had short terms of office. One cannot help feeling that non-survival of the charters must partly account for solitary grants by fifteenth and early-sixteenth century superiors. At Arbroath, for instance, apart from 4 granted in the fourteenth century, there is one charter by each of the fifteenth century abbots, Walter Paniter, Malcolm Brydy, William Bonkill and David Lichton, 2 by George Hepburn before 1513 and 1 by abbot James Betoun, whereas, in a period where charters are more likely to have survived, there are 8 by David Betoun, 49 by John Hamilton and 11 by Esme Stewart.

Feu Charters granted by Cathedral Clergy

1. ABERDEEN:

DEAN: Mr Robt. Erskine, 1543, RMS 3/2973; Mr Robt. Maitland, 1570, RMS 4/2835
CHANCELLOR: Mr Alexander Seton, 1558/9, RFC 2/101
PRECENTOR: Mr Archd. Betoun, 1579, RMS 5/867
SUBCHANTOR: Mr Alex. Kyd, 1544, GD 74/29
ARCHDEACON: Mr Jas. Erskine, 1568, RMS 4/1864; 1578/9, RMS 5/265
VICARS CHORAL: 1547, Reg. Epis. Aberd. 1/432; 1573, RMS 4/2313
CANONS: Mr Henry Forsyth, 1543, RMS 5/878; Mr Robt. Hamilton, 1543, 44, 57, RMS 3/2996, 2997, RMS 5/1560, RH 8/1721 (Reg. House Chart.); Mr James Strachan, 1558/9, RMS 5/867; Mr Robt. Mercer, 1580, RFC 2/103, RMS 5/884; Mr George Leslie, 1575, RMS 4/2464; Mr Walter Stewart, 1584, RFC 2/268

2. ARGYLL:

CHANCELLOR: Dugall Macgregor, 1574, Additional Breadalbane Papers, no. 23 (S.R.O.)
PRECENTOR: Neill Campbell, 1574, Ibid.

3. BRECHIN:

CHANCELLOR: Mr George Hepburn, 1580, RFC 2/104
TREASURER: Mr John Hepburn, 1557, RMS 5/884; 1569/70, RMS 4/2808
PRECENTOR: Mr Paul Fraser, 1571, RFC 2/104
ARCHDEACON: David Erskine, 1577, RFC 2/227
CANONS: Mr Andrew Leche, 1578, RMS 5/1226
CHAPLAINS: David Brown, 1547, Reg. Epis. Brech. cxxix; sir And. Moreis, 1574, RMS 5/863

4. CAITHNESS:

CHANCELLOR: Alex. Lovell, 1560, RMS 5/72
TREASURER: Mr Wm. Gordon, 1560, RMS 4/1705; 1561, RMS 4/2995; Wm. Gray, 1581, RMS 5/1054
PRECENTOR: Mr Robt. Stewart, 1559, RFC 2/55
ARCHDEACON: Mr Jas. Brady, 1556, RMS 5/1077; John Sinclair, 1560, RFC 1/295; Mr Robt. Innes, 1587, RMS 5/1766
CANONS: Wm. Sinclair, 1563, RFC 2/318
CHAPLAINS: sir Alex. Gray, 1543/4, RFC 2/318

In addition to holders of prelacies, episcopal and monastic, many of the higher, beneficed clergy feued the temporalities of their livings. The table which begins on the opposite page gives some idea of the number of charters granted by cathedral clergy of all ranks.

As will be seen from the table, a number of chaplains of altars in the cathedrals, as well as the higher clergy, feued their property, mainly after 1560 when the termination of their religious duties released them from the necessity of residence near their respective churches. We have glimpses of the living accommodation of the lesser cathedral clergy in some of these feu charters. After the Reformation the vicars choral of Glasgow cathedral feued to sir Bartholomew Simson, one of their colleagues, 'two ruinous tenements pertaining to the vicars lying on the south side of the Drygate ... which tenements contain four small rooms and four lower booths and lofts ...'⁶ In 1562 sir Andrew Burrell, chaplain of St Thomas' altar, feued to a Glasgow burgess, John Labiscond, and his wife, Agnes Burrell, a tenement containing two booths and two 'laich' booths with a portion of ground on the west side 'ruinous and decayit' and lacking gates, windows, etc., in the Drygate, next to the manse of the Subdean.⁷

There are charters by 58 chaplains of privately endowed chapels, the vast majority of which were granted from the late 1550s onwards. While most of these men served in rural areas, a number were attached to foundations in or near burghs. The latter included the chapels of

⁶ Register of the Privy Seal, vii, 1043.

⁷ Register of Feu charters of Kirklands, ii, 246.

5. DUNBLANE:

DEAN:

Mr Roger Gordon, 1549/50, RMS 5/2210; 1558, RMS 5/1234; 1560, RFC 1/41; 1569/70, RMS 5/1302

TREASURER:

Mr Alex. Chisholm, 1579/80, RMS 5/1288

ARCHDEACON:

Mr Jas. Chisholm, 1576, RFC 2/82; 1582, RMS 5/534

CANONS:

John McIlvoire, 1573/4, RMS 5/425; Robt. Seyton, 1567, RMS 4/2378; John Wemyss, RFC 2/144

CHAPLAINS:

sir Robt. Atkenhead, 1532, RMS 5/2139; sir John Learmonth, 1564, RFC 2/93

6. DUNKELD:

DEAN:

Geo. Hepburn, 1518, RMS 5/1202; Mr Jas. Hepburn, 1560, RFC 1/236; 1564/5, Ibid., 237-8; Mr John Bartane, 1584, Montrose Writs, i, p. 107

CHANCELLOR:

Wm. Douglas, 1539, GD 1/525/1 (Misc. Collections); Mr Wm. Gordon, 1565, RMS 4/2386, RMS 5/1198, RFC 2/4, RFC 2/220; Mr Wm. Edmonston, 1583, RMS 5/1160

TREASURER:

Duncan McNair, 1574/5, RMS 5/70

ARCHDEACON:

Mr David Spens, 1561, RFC 1/103

CANONS:

sir Thos. McGill, 1572, RFC 2/236; 1573, RMS 5/791; Mr David McGill, 1580/1, RMS 5/1076; 1581/2, RFC 2/328; 1585, RMS 5/1241, 1293; sir Robt. McNair, 1557, RFC 1/55; 1562, RMS 4/1697; 1564, RMS 4/1686; Michael Balfour, 15-- , RSS 7/750; Mr Robt. Auchmowty, 15-- , RSS 4/2196; Mr Pat. Mure, 1581, RMS 5/1208; Seven canons grant a charter jointly, 1566, RMS 4/1805

CHORISTERS:

Fifteen grant a charter jointly, 1561, RMS 5/1138

CHAPLAINS:

David Moreson, 1560, RFC 1/86; 1570, RMS 5/1189; Robt. Foullar, 1544, GD 16/12/212 (Airlie Muniments S.R.O.); sir Walter Young, 1565, RFC 1/201

PRECENTOR:

Wm. Adamson, 1562/3, RMS 5/1189; Wm. Curll, 1565, RFC 1/193

7. GLASGOW:

DEAN:

Mr Jas. Balfour, 1565, RMS 4/1940; 1571/2; Mr George Lockhart, 1538, Hist. MSS. Comm. Report xi, pt. vi, 20

TREASURER:

John Livingston, - , RSS 6/1945

ARCHDEACON:

Mr Robt. Richardson, 1565, RMS 4/1938

SUBCHANTOR:

John Hamilton, 1560, RMS 5/543; RMS 4/2994

SUBDEAN:

Mr Jas. Hamilton, - , RSS 5/1/2082

CANONS:

Our Lady at Arbroath, St Leonard's at Ayr, the Chapel of Cromarty, St James at Dunfermline, St Mary, St Leonard and St Ninian at Edinburgh, St Ninian at Leith, Loretto at Musselburgh, Our Lady at Peebles, St Katherine and Our Lady at Perth, St Mary at St Andrews and St Roche and Our Lady at Stirling. Compared with the chantry priests, who faced redundancy in 1560, these beneficed chaplains were in a favourable position in the unsettled conditions of the mid-sixteenth century. In addition to the personal protection of a private patron who might be able to offer alternative employment, these men were able to provide for emergencies by feuing the land and property attached to their chaplainries, which was sometimes considerable. Sir David Curll, chaplain of St Katherine's chapel at Kilbarchan, had connections with the reforming lairds of Ayrshire in the 1540s and 1550s. In 1564 he feued the 9 merklands and glebe belonging to the chaplainry to the brother of his patron, Chalmers of Gadgirth, and by 1571 had become reader at Tarbolton in Chalmers' home country.⁸ No doubt the feu-duty was a welcome supplement to the reader's income and would be more easily collected from the laird's brother, with whom Curll was on friendly terms, than from the distant tenants on the chapel-lands at Kilbarchan.

In most cases feu-duty was payable directly to these chaplains, bringing in reasonably large sums of money. The chaplain of Tallarkye,

⁸ Register of the Great Seal, iii, 2873; Cunningham of Caprington Muniments: GD 149/1/24 (S.R.O.); Register of the Great Seal, iv, 1600; Thirde of Benefices, 265.

7. GLASGOW:
(continued)

CANONS:

Mr Archd. Douglas, 1570, RFC 2/200; 1571, RMS 4/2068, 2954; RMS 5/547; John Wardlaw, 1574/5, RMS 5/545; Mr John Hamilton, 1567/8, RMS 4/2035; Claud Hamilton, 1574, RMS 4/2375; Mr John Hepburn, 1564, RFC 2/241; Mr Wm. Baillie, 1562, RMS 5/2209; Wm. Herbertson, 1566, RMS 5/680; David Stewart, 1563, RMS 4/1785; Mr George Hay, 1563, RFC 1/309; Mr Gavin Hamilton, 1549/50, RMS 5/2294 (the Dean, as prebendary of Hamilton)

VICARS OF THE
CHOIR:

Grant a charter jointly, 1515/16, RH 6/838 (Reg. House Chart.), 1562, RFC 1/208; 1564, RMS 4/1629; - , RSS 7/1043

CHAPLAINS:

sir John Smith, 1565/6, RFC 1/222; Jas. King, 1586, RMS 5/1112; Wm. Crawford, 1560, RFC 2/316; Mr Robt. Herbertson, 1564, RMS 4/2956; 1558/9, RMS 4/2497; 1560, RMS 4/2496; Geo. Herbertson, 1564, RMS 5/680; sir Andrew Burrell, 1562, RFC 1/246; Mr Archd. Crawford, 1563, RMS 4/2957; sir Richard Herbertson, 1563/4, RFC 2/205; John Naysmith, 1560, RMS 5/2911

8. MORAY:

DEAN:

Mr David Dunbar, 1555/6, RMS 5/980; Mr Alex. Campbell, 1557/8, RMS 5/1118; 1558, RMS 4/2648

TREASURER:

Mr Pat. Douglas, 1575, RMS 4/2510; 1577/8, RMS 5/642

ARCHDEACON:

Gavin Dunbar, 1574, RMS 4/2681; Mr Pat. Cuming, 1580, RMS 5/197

CANONS:

Mr John Keith, 1583, RMS 5/1289; Mr Alex. Leslie, 1580, RMS 5/1002; Mr Thos. Austeane, 1577, RMS 4/3014; Mr Hugh Cragy, 1582/3, RFC 2/210; Mr Wm. Lamb, c. 1541, Montrose Writs, i, 151; Mr Archd. Lindsay, 1579/80, RFC 2/241; Mr Jas. Spens, 1541, RMS 5/1001; Florence Home, 1544, RMS 5/1101; sir Alex. Douglas and sir Jas. Spens, jointly, 1560/1, GD 93/2/77

9. ST ANDREWS:

CHAPLAIN:

Mr Wm. Murray, 1563, RMS 4/2153

in Inverness-shire, received just over 29 merks,⁹ that of Cromarty £10,¹⁰ that of St Mary at St Andrews £40.¹¹ The chaplain of St Michael at Hailes was able to feu not only his lands but also the walk-mill there and some pasture, for which he received £7 10s.¹² A number of these granters realised as much in feu-duty as did the clergy who alienated the parochial kirklands: the vicar of Kilbarchan received £10 for the kirklands,¹³ exactly the same amount as did sir David Curll for the lands of the chaplainry of St Katherine there.

Although monks seem not to have been entitled to alienate, in perpetuity, their chambers and yards, but only to dispoise their liferents in them, certain members of monastic communities were able to feu property which had been given for the endowment of their particular office. The senior member of a convent sometimes possessed a 'priorscroft' or 'prior's medo', which he had the right to dispoise heritably. In the early 1540s Henry Baxter, prior of Paisley, granted 9 feu charters of land specially reserved to him, part of which was called the 'priorscroft'.¹⁴ In 1559 the prior of Dunfermline, sir John Baxter, who combined his office with that of elimosinar, feued a tenement in Dunfermline to Alan Coutts, chamberlain of the abbey.¹⁵ Eight years later sir John Angus, of the same monastery, feued to

- 9 Register of the Great Seal, iv, 1368.
- 10 Register of Feu Charters of Kirklands, ii, 242.
- 11 Register of the Great Seal, v, 866.
- 12 Ibid., v, 759.
- 13 Ibid., iv, 2412.
- 14 Paisley Register of Feu Charters, ff.83v-90v.
- 15 Register House Charters: RH 8/1769.

10. ROSS:

DEAN: Mr Mungo Moneypenny, 1561, RMS 5/718; Alex. Urquhart, 1568, RMS 5/716
CHANCELLOR: Mr John Jackson, 1563, RFC 1/238; Mr Duncan Chalmer, 1567, RFC 2/252; Mr Geo. Munro, 1571, RFC 2/276
TREASURER: Mr John Robertson, 1567, RMS 5/739
ARCHDEACON: Mr Donald Fraser, 1561, RMS 5/562; 1567, RMS 5/387; 1569/70, RMS 5/562; 1580, RMS 5/124
SUBDEAN: Wm. McQueen, 1579, RFC 2/155
CANONS: Gavin Dunbar, 1561, RMS 5/78; Alex. Home, 1573, RFC 2/252; David Dunbar, 15-- , RMS 5/1794
CHAPLAINS: Jas. Buchart, 1556, RMS 5/1922; Alex. Douglas and Jas. Spens, 1565/6, RFC 2/251
VICARS OF THE CHOIR: Jointly, 1567, RFC 2/289

11. ORKNEY:

CHANCELLOR: Mr Jas. Annand, 1569, RMS 4/2872
TREASURER: Mr Francis Bothwell, 1570, RMS 4/2676; 1572, RMS 4/2389
SUBCHANTOR: Mr Jerome Tulloch, 1573/4, RMS 4/2207
SUBDEAN: Mr John Lyon, 1560, RFC 1/242; Mr John Tyrie, - , RSS 5/2/3186; Mr Archd. Douglas, 1567/8, RMS 4/2472
PROVOST: Mr Malcolm Halcro, 1544/5, RMS 3/3101; Mr Alex. Dick, 1566, RMS 4/1759; 1571, RMS 4/2638
CANONS: Mr John Anderson, 15-- , RSS 5/2/2510
CHAPLAINS: sir Thos. Richardson, 1565/6, RMS 4/1758; 1572/3, RFC 2/118; Mr Jas. Maxwell, 1577, RMS 5/1287; Mr John Houston, 1577, RMS 5/1047; sir Wm. Innes, 1561, RMS 5/2265; Edward Halcro, 1570, RMS 4/2815

Coutts 'pratum sui elemosinariatus'.¹⁶ There were beneficed chaplains of altars in abbey churches who are sometimes found alienating their lands. After the Reformation Alexander Stevin, ex-monk of Dunfermline, 'tutor' of the altar of St Laurence, feued the garden called 'St Laurence yard' to a brother of Murray of Tullibardine.¹⁷ At Paisley, charters of two tenements belonging to the altars of St James and St Nicholas in the abbey church were granted by Constantine Stewart, the chaplain.¹⁸

The kirklands belonging to parish churches were feued as follows:

<u>Charters granted by</u>	<u>Number</u>
Religious institutions, directly	32
Parsons of appropriated parishes, prebendaries etc. .	64
Parsons of free parsonages	13
Vicars perpetual	72
Vicars pensionary	39
Vicars portioner	1
Chaplains of altars in parish churches	40
Parishes frequently served by a canon regular	16
	—
TOTAL	277
	—

Lands were feued directly by the institutions to which they were appropriated in charters granted by the bishops and chapters of Aberdeen (1), Galloway (1), Moray (4) and by the archbishop and chapter of St Andrews, by the abbots and convents of Cambuskenneth (1), Cross-

¹⁶ Register of the Great Seal, iv, 2083.

¹⁷ Ibid., v, 392.

¹⁸ Paisley Register of Feu Charters, ff.85v, 110v.

raguel (1), Dunfermline (1), Glenluce (1), Holyrood (1), Inchaffray (1), Kelso (1), Lindores (1), Newbattle (1), Paisley (7) and by the collegiate church of Biggar (1).

The parsons of unappropriated churches who granted feu charters were those of Carrington, Craginish, Dalry (Kirkcudbright), Durris, Ecclesmachan, Methil, Monyabroch (Kilsyth), Oldhamstocks, Parton, Penicuik, Restalrig, Touch, Weem and Wigtown. Some of the charters were granted by canons regular who served the perpetual vicarages of some appropriated churches.

In most cases the grant of a feu charter required the consent of interested parties. In the alienation of monastic lands the consent of the convent was a permanent necessity as was the consent of cathedral chapters to alienations by the bishops and, vice versa, of the bishops and chapters to any charters granted by cathedral dignitaries and prebendaries.

In days when the superior of a monastery was often a layman, or absentee ecclesiastic, there tended to be a conflict of interests between him and the convent, who occasionally threatened to withhold their consent in order to ensure a mutually fair deal over the alienation of the property. The struggles of the convent at Melrose with the commendator, James Stewart, are well known and have been already referred to. In June 1556 they stated that they 'had put in writ certane articlis to have bene considderit be my Lord Commendatare thair maister being present ... quha displesandlie and with furiosite wald nocht reid the said articlis bot raif thame and cast thame down ... and

that becaus the said supprior and convent wald nocht sele and subscribe
ane unressonable chertour of few of thair teniment and luyne biggit
be the ... expenses of thair predicessouris and to mak alienation
perpetuall thairof in favouris of Gilbert Balfour, burgess of
Edinburgh ...¹⁹ In May 1555 the same commendator had arranged with
the tenants of Kylesmure to obtain the monks' consent to their feu
charters, 'the tennentis payand therfor ane mark of ilk markland to be
gevin to the said convent for their contentatioun ...'²⁰

In January 1567/8 the chamberlain of Scone, acting on behalf of
the commendator, Patrick Hepburn, bishop of Moray, then imprisoned in
Edinburgh, was faced with the refusal of the canons of the abbey to
subscribe a tack of certain teinds to Sir John Wishart of Pitarrow,
though Hepburn had instructed the chamberlain to tell them that he had
himself signed the tack under threat of the loss of his livings of
'Moray and Scone'.²¹ The canons, who recorded their objections in
instruments drawn up in the prior's garden, insisted that this was
scarcely sufficient warrant 'alsua that thai knaw na sowmes of monye
contentit in the said assedatioun ressavit fra the said Sir John nor
convertit to the reparing or bigging of the place ...' They also
objected to the clause stating that the grant had been made by the
commendator and themselves 'cheptourlie gadderit' since this was untrue,
the bishop 'as yit presentlie is resident and retenit in the burt of
Edinburgh sen the 16 day of October last ... and the breder abonewritin

¹⁹ Melrose Regality Records, iii, 217.

²⁰ Morton Papers: GD 150/Box 54, 4 May 1555.

²¹ Yule Collection: GD 90/2/9 (S.R.O.).

are in Scone' and have not spoken to him nor been advised on the matter: which shows that the habit of sending a completed document to the convent for their subscriptions, while it was permitted in practice to a considerable extent, could be objected to by the convent when it suited their purpose.

Hepburn had already had similar trouble with the canons at Elgin, though in that instance he had managed to get round the difficulty by using means of doubtful legality. On 1 March 1566/7 he entered into an agreement in which he admitted having been unable to obtain the chapter's seal to a feu charter of certain lands to Thomas Narne of Kelles.²² He arranged to borrow from Alexander Dunbar of Kilboyack 600 merks in order to repay Narne's grassum which the latter had laid down and further promised to feu the lands in question to Dunbar 'with as many of the canons' signatures as possible and to be sealed with the bishop's round seal only.'

In July 1566 the archdeacon of Brechin raised an action for the reduction of a feu charter which, it was alleged, had been granted by his predecessor without the consent of the bishop and chapter.²³ The following entry in the Privy Council Register for 19 January 1571/2 shows how the remaining members of the Glasgow chapter, in the absence of the exile archbishop, James Betoun, resisted pressure from the Regent Lennox: in the civil-war situation the objections may have been partly due to religious and political conservatism among the canons.²⁴

²² Register of Deeds, ix, f.24.

²³ Register of Acts and Decrees, xxxviii, f.68v.

²⁴ Register of the Privy Council, ii, 110.

'Forsamekill as it is understand to my Lord Regentis Grace how Capitane Thomas Crawford of Jordanehill, obtaining infeftment of feu-ferme of the mylne, mylnelandis and multuris of Partick ... the subscriptionis of the cheptour, and common seill, being requireit to the said infeftment, his Grace hes divers tymes requestit the Dene and Cheptour of Glasgow to that effect; quhais delay to satisfie his Grace hes procedit on this, that they wer unwilling to entir a preparative consenting to the few of the landis and rowmes being of the patrimony of the said Archebischoprik quhilkis ar possessit be auld and kyndlie rentalit tenentis; bot my Lord Regentis Grace considering that nane can pretend present titill or clame of kyndnes to the possessionis specifeit ... and that his (Crawford's) service hes meritit mair speciall regard nor utheris ... continewand his said requeist ... desyris the saidis Dene and Cheptour, to pas the said Capitane Thomas charter ...' The charter held out for just over two years, the charter being finally dated 16 February 1573/4. The preamble stated that it had been granted at the request of the Regent Morton in return for Crawford's services during the civil war.²⁵

Just before the Reformation the prebendaries of Lincluden collegiate church refused to subscribe a feu charter by the provost of 'the place and manis of Lincluden' saying that he ought to reside there as he had promised.²⁶ The names of surviving monks appear on feu charters till the end of the sixteenth century: that of John Watson

²⁵ Register of the Great Seal, iv, 2199.

²⁶ W. McDowall, Chronicles of Lincluden, 136.

monk of Melrose, appears in 1588 as 'onlie convent'.²⁷ On 11 November 1596, in resigning the advowson of a church, the commendator of Jedburgh abbey attached the common seal to the writ, saying, 'the commoun seill of our said abbay is heirto appendit in place of the consent of the said convent in respect thai ar all departit this present lyfe.'²⁸

In addition to the consent of those who were joint-owners of the property, a granter had frequently to act 'with advice' or 'by consent' of someone temporarily concerned with its administration. Fourteen Culross abbey charters were granted, in the 1540s, in the joint names of William Colville, the commendator, and his young nephew, John Colville, called 'abbot', who died while a student at Paris in 1552. About the same time, a charter of St Andrew's priory lands was granted by Alexander Mylne, abbot of Cambuskenneth, in name of James Stewart, the king's son.²⁹ Later in the century Alexander Colville, commendator of Culross, acted on behalf of young James Douglas, son of the laird of Lochleven and commendator of Melrose. There are examples of charters granted in association with a prospective successor. In 1566 Robert Pitcairn, who had been recognised as successor to his uncle, George Durie, commendator of Dunfermline since at least 1558,³⁰ granted 5 charters as 'commendator designate having commission to set in feu

²⁷ Melrose Regality Records, iii, 343.

²⁸ Register of Charters and Leases of Jedburgh Abbey: CH 6/6/1 (S.R.O.).

²⁹ Register of the Great Seal, iii, 2611.

³⁰ Register of Tacks of Dunfermline abbey: CH 6/3/1 f.6.

the teinds and lands of the lordship and regality of Dunfermline' on behalf of the commendator then in France.³¹ Although administrators are usually named in cases where the superior was a minor, they are not invariably mentioned in other cases. Only in one St Andrews charter by archbishop John Hamilton have I found Gavin Hamilton, commendator of Kilwinning, giving his consent as coadjutor.³² Although in an Arbroath charter granted on 5 February 1538/9 David Betoun described himself as 'coadjutor of St Andrews', his aged uncle, the archbishop, granted a charter three days later entirely in his own name.³³

The rights of patrons, lay and ecclesiastical, had to be taken into account by the granters. According to law, the king had the right to annul charters of lands which had been originally given to a church by himself, or his forbears, or which belonged to a church which was a royal foundation, if the alienation was made without his consent.³⁴ Nevertheless, hardly any feu charters state that royal consent had been obtained except in the case of some small foundations such as chapels and hospitals. Exceptions to the rule are three Paisley charters granted in 1544, one 'with consent of the queen as patron of the monastery' and two with consent of the Governor, one of which is subscribed by him.³⁵ No other Paisley charters carry a clause referring to royal consent, nor do any charters of the royal foundations of Holyrood and Dunfermline. The regality powers of many

31 Register of the Great Seal, iv, 1659.

32

33 Register of the Great Seal, iii, 2741; v, 1050.

34 Balfour's Practicks, i, 142.

35 Register of the Privy Seal, iii, 761, 855, 873.

abbots and of the bishops probably mitigated, if not eliminated, this obligation. Moreover, Crown confirmation was a kind of belated royal consent - very belated, it must be admitted, in some cases. Individual superiors may have come to a prior understanding with the king on this question as some of them did with the papacy and, in any case, they could fall back on the acts of parliament 'anent feu-ferme' as a kind of 'blanket commission'.

In the feuing of parish kirklands the question of obtaining the patron's consent was a more immediate necessity since the incumbents were, to a great extent, dependent on the patron's goodwill, he having a direct interest in the property.

Charters by parsons of unappropriated churches in private patronage make mention of the consent of the earl of Bothwell, the laird of Penicuik, Logan of Restalrig and Menzies of Weem and of the archbishop of St Andrews as ecclesiastical patron. The parsons of the appropriated parishes of Ballingry, Biggar, Invernochty, Kirkmahoe, Kirkpatrick-Irongray and Morham had to obtain the consent of the patrons Andrew Wardlaw of Torry, Lord Fleming, the Master of Elphinston, Stewart of Garlies, Maxwell of Terregles and the earl of Bothwell, respectively. A fair proportion of the perpetual vicars who feued land belonging to appropriated churches grant their charters without making mention of consent by the institution concerned, but a number of them do so. The same is true of the vicars pensioner.

Is it possible to detect a 'policy' behind the feuing by individual granters and how far were they motivated by the factors examined in

Chapter Three?

There are indications here and there that the whole of certain regalties and ecclesiastical estates were set in feu, suggesting a comprehensive plan on the part of some superiors, whether this was to the tenants' advantage or not, being for the moment beside the point. A tenant of Inchaffray abbey once explained to the Lords of Session how that the commendator 'hes fewit all the haill lordship of Inchaffray' and that he and his widowed mother 'for thair pure maling' had agreed with the commendator that they should have their current lease converted into a feu 'siclyke as the remanent tennentis and occupyaris of all uthyr landis of the said abbay hes obtenit in few.'³⁶ In July 1559 it was stated, in a confirmation by the archbishop of St Andrews as Legate a latere, that Gavin Hamilton, commendator of Kilwinning, had set in feu-ferme to the inhabitants and husbandmen 'totam et integram baroniam et seu terras de Kilwynnyng, Beith and Lyencorse.'³⁷ As we have already noted, Robert Pitcairn was commissioned by George Durie, commendator of Dunfermline, to feu the lands of the whole regality, suggesting that they had worked out some form of programme. It may have been, of course, that the commendator designate, thinking of the future, had obtained permission to put his own plans for the estates into operation. Between September 1565 and the end of 1566 Mr Robert Richardson, the Lord Treasurer, who had already received extensive grants of Dunfermline lands in feu, resigned 66 separate

³⁶ Register of Acts and Decrees, xii, f.472.

³⁷ Archaeological and Historical Collections of Ayr and Wigton, i, 204.

pieces of land in favour of the sitting tenants, which must have meant a tremendous amount of re-allocation and drawing up of feu charters.³⁸

Kylesmure, as we have seen, was feued to the tenants in the 1550s as the result of a contract between themselves and the commendator of Melrose. At the same time the commendator's half-brother, John Stewart, who held Coldingham priory, was feuing the touns of Coldingham and Eyemouth to the tenants there.

Abbot George Shaw of Paisley, at the end of the fifteenth century, instead of setting the customs of his burgh in feu, as did the abbot of Dunfermline at an earlier period, feued the burgh lands themselves and the terra campestris to the burgesses. His policy was continued by his successor, Robert Shaw, who granted 33 charters of land in and around the burgh between 1500 and 1525.

One can sometimes guess at the motivation behind feuing by looking at the dates when superiors granted the bulk of their charters. As might be expected, a number of them did so just before the Reformation crisis. Archbishop John Hamilton, Gavin Hamilton, commendator of Kilwinning, his coadjutor, and John Hamilton, commendator of Arbroath, the archbishop's nephew, granted many of their charters in the later 1550s. Not only were they alienating their lands at much the same time but all three tended to give many feus to sitting tenants, suggesting a measure of common policy among them. Abbot Donald Campbell of Coupar Angus, although he had been in office since 1526,

³⁸ Register of Tacks of Dunfermline abbey, CH 6/3/1, ff.81v-85v (S.R.O.).

had made only 4 grants by 1550 but between the Spring of 1558 and March 1559/60 he gave 44 feu charters. The grassums he would receive may have helped to meet expenses incurred in his attempts to obtain provision to the see of Brechin, which fell vacant in August 1558. He may also have been laying aside money for emergencies since even before the sack of Scone abbey, a not too-distant neighbour, in the summer of 1559 he had referred to the subversive activities of laymen in the district '*orthodoxe fidei contrariorum, multos sacros locos diversis in partibus circumvicinis penitus destruentium.*'³⁹ It was about this time, too, that he deposited some of the abbey's treasures and vestments with his kinswoman Katherine Campbell, countess of Crawford, for safe-keeping, probably thinking as much of their material as of their ecclesiastical value.⁴⁰

Walter Reid, who came into effective possession of Kinloss abbey about 1558, granted 10 charters the following year. He continued to alienate land throughout the 1560s, culminating in the grant of 31 feus to the sitting tenants of Strathisla in 1569: his methods, on the whole, suggest a degree of 'estate management'. Bishop Robert Crichton of Dunkeld had feued only the Mains of Aberlady and two small crofts in Dunkeld before the Reformation but, having had difficulty in collecting his rents in recent years, he granted 12 charters before the end of 1561. Deprived of his see for his refusal to conform to the Reformed Kirk, he lived in poverty in Edinburgh: in 1582 he and

³⁹ Register of the Great Seal, iv, 1380.

⁴⁰ Register of Acts and Decrees, xxix, f.106.

his servant, David Crichton, vicar of Auchtertule, were living in two rooms 'in the west part of the turnpike within the great tenement' belonging to the hospital of St Thomas, on the High Street of Edinburgh.⁴¹ In 1583 he petitioned the king for financial assistance and was given licence to collect certain fruits of his bishopric.⁴² He was restored to his see in 1584 and in the last year of his life he granted 13 charters, mostly to sitting tenants on the barony of Dunkeld.

John Philp, abbot of Lindores, granted charters of the abbey's lands in Aberdeenshire, Forfar and the burgh of Perth in the 1540s and feued the Grange of Lindores itself on the eve of the Reformation, during 1558-9. Three charters were granted in name of James Stewart, commendator of St Andrews priory, during his minority, he himself giving 25 during the 1550s and 1560s. Unlike his half-brothers at Melrose and Coldingham, he rarely gave the feus to sitting tenants.

Most granters, from the archbishops to the holders of the smallest vicarages and chaplainries, had in mind the interests of their families, kinsmen and friends in feuing their lands. One has only to glance at the pattern of surnames among the feuars of the various regalities to be instantly aware of this factor: 12 charters to Gordons of lands of the bishopric of Aberdeen, 5 to Lesliees of those of the bishopric of Ross, 5 to Crichtons on the lands of Dunkeld, 4 to Colvilles at Culross abbey, 13 to Campbells at Coupar Angus, 12 to Hamiltons and 11 to

⁴² Register of the Privy Council, iii, 356-8.

Cunninghams at Kilwinning, 5 to Hamiltons at Paisley, 6 to Dunbars and 5 to Douglasses at Pluscarden, accounting for exactly half of the surviving charters of that house, and 6 to Hepburns at Scone.

Out of a total of 283 charters of parish kirklands 69, that is about 24%, were given to persons who shared the same surname as the granter or who were said to be related to him. This is understandable where the feuar was the patron, or one of his kinsmen, the benefice itself being a family perquisite: this happened in the case of the parish churches of Restalrig and Dalry in Kirkcudbrightshire. Incumbents were also likely to feu their kirklands to relatives if these happened to be men of local influence. This was the situation in the case of the kirklands of Glamis which were given to James Lyon; those of Wigtown, feued to Alexander Waus of Barnbarroch; Cargill in Perthshire given to Lord Drummond; Kirknewton granted to James Somerville; Kilcalmannel, in Knapdale, to Charles Makallister, constable of Tarbert; Smailholm to John Hume of Blackadder; Aberdour given to a relative of the vicar living there; Dowally feued to George Stewart of Arntully; Inch to Gilbert MacDowall, brother of the laird of Garthland; Newtyld to David Lindsay of Lethnot; Bathgate to James Hamilton of Bathgate; Cokpen to the second son of Ramsay of Dalhousie; Lungley, in Banffshire, to the son of the Master of Marischal; Ardrossan to Gabriel Porterfield; Penicuik to William Penicuik; Kirkpatrick-Duran to Robert Turner; Carmunnock to Mr James Hamilton of Peill; and Stewarton, in Ayrshire, to George Montgomery 'of Kirkland'.

There were cases, however, where the holder of a parochial benefice

was able to feu the kirklands to a relative even though the latter did not live in the immediate neighbourhood and did not have patronage rights or other apparent interest in the property. In May 1577 Mr William Somerville, perpetual vicar of Kirkbean, feued the kirklands, several yards and a newly-built house beside the church to his sister Margaret, wife of Charles Murray of Cokpule, and her son James.⁴³

The parishes of Kirkbean and Ruthwell, in the second of which Cokpule lay, though they lie opposite to each other across the estuary of the Nith are not adjacent in any practical sense. Besides, there were others with landed interest in the parish to whom the vicar could have given the kirklands, including the Regent Morton,⁴⁴ then in power, and Maxwell of Cavens, to whose grandson the vicar's escheat had been given in January 1570/1 on account of the latter's failure to pay his 'third'.⁴⁵ The non-resident vicar of West Kilbride, Mr Archibald Crawford, granted the vicarage kirklands to his nephew, the heir to Crawfordland, which lay 3 miles north-east of Kilmarnock; the kirklands were then held by nine tenants.⁴⁶ In 1567 Mr John Wardlaw, vicar of Garvock parish in Kincardine, feued the kirklands to John Wardlaw 'in Leith', a case, one might almost say, of property-speculation.⁴⁷

Bishops, commendators and others often granted charters of appropriated parish kirklands to relatives and friends, as in the cases

⁴³ Register of the Great Seal, v, 1223.

⁴⁴ Francis Groome, Ordnance Gazetteer of Scotland, iv, 413.

⁴⁵ Register of the Privy Seal, vi, 1082.

⁴⁶ Register of Feu Charters of Kirklands, ii, f.160.

⁴⁷ Ibid., ii, f.63.

of the churches of Torrens, Ceres, Glenbuchat, Kinnetles, Aberlemno, Montrose, Alnes, Rothven, Kilbirnie, Eddleston, Eaglesham, Manor and Cumbuslang. In order to confound the critics, it would appear, Patrick Hepburn, as commendator of Scone, feued the kirktoon of Liff among five of the inhabitants!⁴⁸

Chaplains of altars in parish churches of Dundee, Edinburgh (St Giles), Falkirk, Linlithgow, Killenane and Aytoun gave charters of lands attached to their chaplainries to people who are said to be, or were probably, their relatives. This also seems to have been true with regard to those who held the private chaplainries at Balkny, Obstule and Kilmure in Ross, Brunton in Fife, Forgandenny, Leuchars, Christwell in Argyll and the Chapels of the Virgin Mary at Peebles and Stirling.

There is a good deal of evidence in the charters that a number of the higher clergy earned the injunction of the Provincial Council of 1549 that they should not 'marry their daughters to barons or make their sons barons out of the patrimony of Christ'. Since Dr Hay Fleming, among others, has dealt with this question fully - and, if one may dare to criticise, at the same time somewhat arbitrarily - it is only necessary here to cite documentary evidence to support the Council's charge.

Bishop William Gordon of Aberdeen granted land in feu, directly or through the chancellor and subchantor of the cathedral, not only to the mother of his children in liferent and to his sons heritably, but

⁴⁸ Register of Feu Charters of Kirklands, ii, ff.248, 257, 260, 261, 266.

also to the man who, had canon law allowed it, would have been his father-in-law, Alexander Knowis, burgess of Aberdeen, who received both lands and valuable fishings on the river Don.⁴⁹ The bishop's son George obtained the kirktoon of the Hospital of St Peter in the barony of Spittal and the manor of Murthall, while John received a feu of the lands of Petblayne and adjacent mill in the 'shire' of Daviot. Grants of land helped to reduce the extent to which the expenses of a prelate's family might be charged on his ordinary accounts: in Spottiswood's History the bishop of Aberdeen is blamed for having used a disproportionate amount of the money derived from commuted victual rents for the upkeep of his family.⁵⁰ In 1542 when Jane Chisholm, daughter of the bishop of Dunblane, married James Stirling of Keir she had a dowry of £1,000 and a substantial tack of certain teinds.⁵¹ In March 1549/50 she and her husband received from the bishop a feu charter of the lands of Auchinby in Strathearn.⁵²

The Rev. Charles Rogers, who edited the Register of Coupar Angus abbey, and who claimed to be a descendant of a tenant of Coupar, says that abbot Donald Campbell is reported to have created baronies out of the regality for his sons: Balgersho, Arthurstane, Kethick, Denehead and Crunan.⁵³ In fact, the lands of Balgersho were feued to William Blair of Balgillo in 1559.⁵⁴ Those of Arthurstane were given to the

49 Register of Feu Charters of Kirklands, i, f.253; ii, f.101; Register of the Great Seal, v, 830, 829.

50 Spottiswoode, History, i, 210 (Spottiswoode Soc.).

51 D. Hay Fleming, The Reformation of Scotland, 63.

52 Register of the Great Seal, v, 2210.

53 Rev. C. Rogers, Register of Cupar abbey, i, 111.

54 Register of the Great Seal, v, 2247.

earl of Atholl by commendator Leonard Leslie in 1567, except for a quarter already feued to a tenant, Robert Turnbull, by abbot Donald Campbell.⁵⁵ The lands passed from the earl of Atholl to James Drummond of Boghall in 1610.⁵⁶ Ten acres of Kethick were feued in abbot Donald's time to four people, two of whom were surnamed Campbell.⁵⁷ A charter of 1550 conveyed the lands of Cowbyre of Kethick to Margaret Campbell, later the wife of Walter Lindsay, son of the earl of Crawford: the charter entailed the lands to her brother 'David Campbell of Kethick'.⁵⁸ In 1558/9 the lands of Easter Denehead were feued to Colin Campbell: they were then said to be 'inhabited, cultivated and possessed by his father Mr David Campbell'. Mr David Campbell sometimes acted as bailie depute of the regality.⁵⁹ Colin Campbell of Crunan is referred to in the abbey records simply as 'our familiar servant', but he could be the abbot's son.⁶⁰ The editor of the Register identifies David Campbell of Denehead and Nichol Campbell of Kethik who are buried in the parish church of Bendochy as the abbot's sons. Whoever these people were, whether the abbot's sons or not, none of them possessed the whole of any of the lands in question.

Cardinal David Betoun, Archbishop John Hamilton, Gavin Hamilton, commendator of Kilwinning, and Mark Kerr, commendator of Newbattle, all provided for their sons to some extent from the feuing of the kirk-

55 Register of the Great Seal, iv, 1809, 2265.

56 C. Rogers, Register of Cupar abbey, ii, 304.

57 Register of the Great Seal, iv, 1781, 2000; v, 2053, 828.

58 Ibid., iv, 2260.

59 C. Rogers, Register of Cupar abbey, ii, 67, 127, 129, 130, 137, 165.

60 Ibid., ii, 131, 268.

lands. Whereas the Cardinal and Gavin Hamilton obtained for their eldest sons baronies held directly from the Crown, Mark Kerr passed on to his the commendatorship of Newbattle, which in time became an earldom. The feuing policy of the Cardinal, Gavin Hamilton and Mark Kerr, including the provision which they made for their families, will be looked at more thoroughly in Chapter Fourteen. Archbishop Hamilton gave a charter of the lands of Craigfudy in Fife to Grisel Sempill, in liferent, and to their son, John Hamilton, in feu.⁶¹ Another son, William, had a feu of the lands of Northferrie from his cousin the commendator of Arbroath⁶² and of the kirklands of Pilmure in Gowrie from James Stewart, commendator of St Andrews priory.⁶³ While the Hamiltons of Raploch and Betouns of Melgound prospered, managing to survive various political crises, the archbishop's sons and their mother ran into difficulties over their property. The grant of Craigfudy led to a dispute with the kindly tenants, the settlement of which cost the Hamiltons £200.⁶⁴ In the Spring of 1569 Grisel Sempill raised an action in Court against her brother whom she had left in charge of her house of Blair, on the lordship of Culross, but which he now refused to hand over to her, having removed some of her household goods.⁶⁵ In certain respects her life was something of a tragedy as well as a public scandal: her own marriage ended in divorce, as did that of her daughter, Elizabeth, who was made her mother's executrix

61 Register of the Privy Seal, liii, f.92v.

62 Ibid., liii, f.25v.

63 Rossie Priory Muniments: GD 48/74 (S.R.O.).

64 Scottish Historical Review, xvi, 65.

65 Register of Acts and Decrees, xli, ff.338, 390.

dative.⁶⁶ Grisel died in Edinburgh in 1575 in something very like poverty.⁶⁷ Although her 'frie geir' amounted to £1,002, this included 500 merks worth of household goods and £656 in debts due to her by others, which leaves about £13, some of which could be accounted for by a quantity of victual at Blair. In addition, she owed money to several Edinburgh burgesses and their wives for which she had pawned clothes, furniture and her rings and gold bracelets. Whatever she had to spend while the archbishop was alive, one has the impression that she and her family were not very well provided for from the long-term point of view.

In 1565 Alexander Gordon, bishop of Galloway, gave his wife, Barbara Logie, a feu charter of the Mains of Penninghame.⁶⁸ In 1582 the commendator of Kilwinning, Alexander Cunningham, gave to his wife, Jean Blair, a number of lands which Gavin Hamilton had previously feued to his son, Gavin Hamilton of Raploch.⁶⁹ The latter had already sold to Lord Boyd a number of other Kilwinning abbey lands which his father had given him in return for 2,000 merks.⁷⁰

Bishop Patrick Hepburn, who holds the record for effrontery as well as for granting feu charters, wrote the details of his domestic irregularities into the texts of charters. In June 1566 he feued the Mains of Clene and the lands of Polkmylne, Abbotscroft and Durdie Scott to his son, Adam Hepburn of Ballinhard, the charter containing,

⁶⁶ *Scots Peerage*, vii, 547.

⁶⁷ *Edinburgh Testaments*: CC 8/8/4, f.37v (1575).

⁶⁸ *Register of Feu Charters of Kirklands*, i, f.178.

⁶⁹ *Ibid.*, ii, f.193.

⁷⁰ *Boyd Papers*: GD 8/267 (S.R.O.).

in the entail clause, the names of Adam's brothers, complete with their mothers' names.⁷¹ A similar list of daughters occurs in a charter of the 'Guiscroft' at Scone granted to Laurence Fairy, his wife Margaret Wright and their daughter Elizabeth Fairy and her son, Patrick Hepburn: the grantees sound like pretty humble tenants.⁷²

In 1567 and 1568 Walter Reid, commendator of Kinloss, met with opposition from his own relatives, including Euphemia Dundas, his mother, over the conditions on which he had granted them feu charters of lands in the baronies of Kinloss and Strathisla.⁷³ After receiving their charters the grantees had signed obligations to resign the lands to the commendator should he so wish.⁷⁴ For some reason these obligations had not been dated and thus could not be proved to have been drawn up after the charters. The grantees now refused to hand over the obligations in order to have the date inserted: the Lords ordained them to do so and decided that the date should be rendered as 25 February 1561/2. It is not quite clear what the commendator's original intention was in making these arrangements. It could not have been merely in order to borrow money since his mother's charter was said to have been granted 'without payments of any kind'. Both parties, Euphemia Dundas and Alexander Achesoun, resigned the lands in question during the 1560s and these were then feued a second time, this time to sitting tenants, except for the Mains of Strathisla which were

71 Register of the Great Seal, v, 681.

72 Register of Feu Charters of Kirklands, ii, 322.

73 Gordon Castle Muniments: GD 44/5/3/24 (S.R.O.).

74 Register of Deeds, ix, f.17; Register of Acts and Decrees, xl, f.383.

granted to Lord Saltoun in 1570.

There is no doubt that the initiative in granting feu charters did not always come from the granters themselves. Pressure could sometimes be put upon them by those enjoying a measure of political ascendancy. In 1563 David Balfour of Montquhanie, one of Cardinal Betoun's assassins, attempted to have annulled in court a charter of the lands of Balbuthie, belonging to St Salvator's Collegiate church, which had been granted to Margaret Grundestoun, widow of George Balfour, and her son George in December 1550.⁷⁵ The pursuer claimed that he had long been in possession of the lands by virtue of an earlier charter from the prebendaries of the same church. The advocate on behalf of the defenders succeeded in convincing the Lords that David Balfour's charter had been extorted from the prebendaries during the seige of St Andrews castle in 1546-7: his speech gives a colourful account of life in St Andrews under the rule of Norman Leslie and company. 'The said Normond and his complices ... not only detenit wrangously the said castell... bot alsua usit all impyr and tyranny that best plesit hym in and about the haill cite ... in byrning and distructionis of the said college and utheris places ... And specialye the tyme of the granting of the said infeftment come to the said provost (John Major) and canonis, having na uther dwelling place nor refuge and there requirit, commandit and chargit thame personally to grant and consent to the making of the said infeftment ... certifying

⁷⁵ Register of Acts and Decrees, xxviii, f.186.

that gyf thay refusit he suld do with thame as he dyd with the said cardinall and intromett with thair haill guds.'

In the early 1550s, while he was still Regent, Chatelherault obtained extensive grants not only of lands belonging to the abbey of Kilwinning from Gavin Hamilton, his own kinsman, but of lands belonging to Holyrood, Kelso and Cambuskenneth.⁷⁶ The grant from the commendator of Holyrood contained 24 territories in the barony of Kerse.

Before his death in 1563 John Stewart, commendator of Coldingham, granted to his half-brother, the future Regent Moray, a feu charter of the toun of Fishwick and the promontory of St Abb's, with fishing rights in the River Tweed.⁷⁷ In June 1565 Moray granted the lands to John Hume of Blacadder, who had the charter confirmed and paid composition to the treasurer. Moray did not sub-feu the lands, he granted them in return for 1 penney 'blenche ferme' to himself and £20 and 42 'gold nobles of England' to future commendators.⁷⁸ Although the transaction received Crown sanction, as it were, at the time, the following Spring (1566) saw Moray in political difficulties. Less than two months after he had been summoned for trial for an alleged share in Riccio's murder the Queen's advocate raised an action against him, calling for production of the original feu charter of Fishwick and demanding that Moray pay four years' arrears of feu-duty to the

76 Register of the Great Seal, iv, 883, 885, 886; Historical M.SS. Commission, Report, xi, pt.vi, 222.

77 Register of the Privy Seal, v, pt.1, 2000.

78 Register of Feu Charters of Kirklands, i, f.209.

Advocate as iconomous of the priory.⁷⁹

While Queen Mary and members of her council were at Jedburgh in October 1566, a contract was drawn up there between the earl of Bothwell and Michael Balfour, commendator of Melrose, in the following terms:⁸⁰ Because of the favour, etc., borne by the earl's late father to Michael ... and that the present earl having gift of disposition of the abbacy put Michael therein; therefore Michael has promised to do all in his power to the advancement of the Earl and his house, the earl being agreed that Michael be 'implaced' in the benefice. The commendator promised to cause the convent to agree to the setting in feu to the earl of 'all the lands of Melrose not already set in feu'. There follows a list of some 108 named territories in the lordship of Melrose, East Teviotdale, the Merse, Tweeddale, Ettrick and Eskdalemuir. The commendator also promised to charge the bailie and all feuars and tenants 'to ride and gang' with the earl and serve him in all the Queen's hosts, an arrangement which, if it became operative, would greatly consolidate the earl's following on the border. At the same time Bothwell obliged himself, with Lord Seton, Lord Livingston, Lord Somerville and Cockburn of Skirling as his cautioners, to pay the commendator's nephew, Alexander Balfour of Denmylne, 1,000 merks for allowing the earl to have a feu of the two mills of Melrose which had been promised to Denmylne by his uncle.⁸¹ In April 1568, after Bothwell's political luck had turned, the commendator feued all the lands contained in the above

79 Register of Acts and Decrees, xxxvi, f.329v.

80 Register of Deeds, viii, f.427v.

81 Ibid., viii, f.426v.

followed:-

[illegible]

contract to Denmylne, his nephew.⁸²

On the opposite page is reproduced the account by Michael Leirmonth, monk of Glenluce, of how the laird of Lochinvar bullied him into forging a charter in the latter's favour.⁸³ The story, if genuine, is as pathetic as it is graphic, containing instructions for a do-it-yourself feu charter. Lochinvar came to Leirmonth on the 8 November 1570 and 'on the northsyid of the kirk befoir St Ninianis yle he desyrit me that I wald mak him ane chairtor of few of part of the landis of Glenluce and for my travell and labors he suld be bound to me that he suld never permitt me to want.' The laird duly returned with 'ane auld chartor' belonging to the earl of Cassillis and a tack made to James Kennedy, complete with signatures and seal. The monk described how the laird 'tuik his awin knyf and ... raisit ane lyne and ane half' and 'causit me to rais the laif', and because the old charter was 'lytle of boundis he causit me to writ ane precept of sesing upone the samyn abon the subscriptionis ...' Removing the common seal by holding a wet cloth to the back of it in front of the fire, they attached it to the forged charter, written on a new piece of parchment. The operation was completed by forging the sign and handwriting of the notary, sir James Halchorne, 'quha wes deid lang tyme of befoir'.

⁸² Register of the Great Seal, iv, 1819.

⁸³ Ailsa Muniments: GD 25/2/117 (S.R.O.).

Opposite: Confession of Dene Michael Learmonth of Glenluce Abbey after forging a feu charter for Gordon of Lochinvar (SRO Ref.: GD 25/2/117).

Part Two: The Personnel

Chapter Five

The Feuars

Feuars divided into 'Groups'

<u>Group</u>		<u>Number of feuars</u>	<u>Approximate percentage of the whole</u>
1	Nobles	52	
	Relatives of nobles, including sons ..	33	3%
2	Known lairds or persons designated 'OF'..	535	
	Relatives of above	222	29%
3	Burgesses and indwellers in burghs	214	
	Relatives of above	11	8%
4	Persons designated 'IN', or who are known to have been below the class of 'laird'..	1,083	
	Relatives of above	69	44%
5	Clergy, before and after the Reformation.	61	
6	Lawyers.. .. .	14	3%
7	Crown servants, not otherwise designated.	9	
8	Not specified: only name given; doubtful cases	344	13%
<u>Total Number of Feuars</u>		<u>2,647</u>	

Chapter Five

The Feuars

The figures in the opposite table and the 'groups' into which the feuars have been divided require some explanation. It should be admitted at this stage that, since statistical methods in historical research have their pitfalls as well as their advantages, the numbers given should be looked upon as guides to the proportion of 'group-representation' among the feuars rather than as a final count.

In the case of the nobles it is possible to be reasonably precise about their numbers since they can be identified with more or less certainty. It is not surprising to find that they represent a very small percentage since they were, after all, only a fraction of the population. The nobles who received charters consisted of one duke, 25 earls and 26 Lords, most noble houses, with a few conspicuous exceptions, being represented. In the following lists the figure in brackets indicates the number of holders of a particular title who received feus of kirklands.

Duke:

Chatelherault (6 charters)

Earls:

Argyll (3), Glencairn (1), Morton (1), Sutherland (2), Huntly (2), Montrose (1), Errol (2), Marischal (1), Bothwell (1), Cassillis (3), Rothes (2), Moray (1), Crawford (2), Caithness (1), Atholl (1), Orkney (1): (54 charters)

Lords:

Borthwick (1), Drummond (1), Erskine (3), Fleming (2), Lovat (1), Gray (1), Yester (1), Herries (1), Hume (1), Boyd (1), Lindsay (1), Glamis (1), Ogilvy (3), Livingston (2), Maxwell (1), Oliphant (1), Ruthven (1), Sempill (1), Seton (1), Ochiltree (1): (47 charters)

What is really striking with regard to the nobles is not so much that they represent 3% of the total feuars but that grants to them account for only just over 3% of the total number of charters found. No matter how few the nobility were in number there was, presumably, nothing to hinder churchmen and lay commendators from granting them any number of charters. Admittedly, charters to nobles usually contained a fair number of territories, including whole baronies, as, for example, in the big feu charters to Chatelherault, Huntly, Bothwell, Morton and the earls of Sutherland. Yet, even allowing for this, the picture is not one of the nobles helping themselves to church land in wholesale fashion. The comparatively small number of feu charters to the nobility is emphasised if we bring into the picture the 33 relatives of nobles, including their sons. If, as has been said, many churchmen and lay commendators were drawn from the noble houses and their cadet branches, why did they not grant more charters to near relatives? We can only suppose that advantages were to be gained from doing otherwise. When we think of feuing from the grantee's point of view, as a kind of investment, it may have been that it was the lairds and bigger tenants, rather than the younger sons and relatives of the nobility, who had the wherewithal to speculate. The offer of a good grassum from a substantial tenant must often have weighted the balance against the desire to give one's relatives a feu on 'easy terms'.

The second group, consisting of persons designated 'of' a certain place, with their relatives, contains within itself a variety of lesser groups.

Basically, the designation 'of' denotes that the person already had heritable possession of some land, by charter from the king or from a subject-superior, at the time when he obtained the feu charter of the kirklands in question. Relatives of such a person, if they were his sons, were prospective members of the same social and economic group but if they were more distantly related their feu charter might, perhaps, convey their first piece of heritable property. Ironically, in this way a laird's relatives might acquire more land than he and his predecessors had held for generations. In most cases, however, the 'relatives' in Group 2 were sons.

A number of lairds were, of course, cadets of the noble houses, descendants of younger sons and so could, in theory, be added to the relatives of Group 1. At the same time, many of these branches had been established long enough to be reckoned units on their own at least in the economic sense, even if this was not so in the realms of social and military interdependence. An English observer in the 1560s remarked that the Kennedy lairds such as those of Blarquhan and Bargany were 'nothing inferior in living to the earl of Cassillis except that he is their chief and of a surname.'¹

The lairds who were not descended from noble houses can be divided into those of long standing, who had acquired their lands in the late medieval period, and those who had received their charters sometime in the sixteenth century. Of the 535 lairds and heritable

¹ Archaeological & Historical Collections of Ayrshire and Wigtown, iv, 17.

proprietors in this group 140 appear in the Register of the Great Seal before 1500 and a further 27 before 1513. Again, Group 2 contains the medieval baronage; families like Rose of Kilravock, Brodie of Brodie, Innes of Innes, Arbuthnot of Arbuthnot and Blair of Blair.

In the nature of things, this Group contains many of the non-sitting tenants who obtained feu charters of church land, since they could not be described as 'of' the land they were about to feu. At the same time, the Group does contain a number of 'occupants', thus designated because they had previously held the kirkland in question on lease.

The burgesses, Group 3, come from the royal burghs, the episcopal cities and the burghs of barony. They include the following, showing the number of feuars in brackets: Edinburgh (29), Paisley (22), Aberdeen (16), Perth (14), Dumfries (11), Glasgow (10), Brechin (8), Dundee (7), Inverness and Dunbar (6), five in each of Elgin, Arbroath, Peebles, St Andrews and Culross, four in each of Stirling, Ayr and Kirkwall and smaller numbers in a fair number of other burghs. There were three 'indwellers' in Leith.

One of the most interesting totals on the Table of Feuars is that of persons who, from the context of their charters or from what is otherwise known of them, appear to have been below the status of 'laird', as this term is commonly interpreted. The great majority of this group are designated as being 'IN' a certain place, which has been taken to mean that they had no heritable tenure of the land which they occupied and of which many of them received feu charters. The status

of those in this group (Group 4) who are not specifically designated 'IN' has been judged from their earlier appearance in rentals, from their testaments, if these survive, and from other external sources. In order to avoid inflating Group 4 unduly I have excluded from it doubtful cases, whose names only are given, if their surnames are those of local lairds or noblemen, since it is possible that they ought to be classified with the 'relatives' of Group 1 or 2. Feuars of this type have been classed with Group 8. I should add that only a handful of feuars are affected in this way, since noblemen's and lairds' relatives are normally designated as such in charters.

Group 8 consists of feuars about whom we are told nothing but their names and about whom insufficient is otherwise known to make it possible to group them more precisely. They include not only a few who, as has been explained above, bore the names of well-known noblemen and lairds, but also many who must have been quite humble folk. We can hardly doubt that the Patersons, Thomsons, Millers, Williamsons and Smiths of a predominantly rural society were fairly small tenants, at least until they obtained their feu charters, nor should we forget the many servants and tenants who, in the late medieval period, took their lord's name or, like him, sometimes took their name from the locality because they had no other and who used a feu charter of kirklands as a means of striking out for themselves as small proprietors of land.

Groups 5, 6 and 7 are almost self-explanatory. The lawyers do not include men like McGill of Nether Rankellour and Bellenden of Auchnoull

whose families had already built up estates before feuing church land on a big scale and who are, therefore, included in Group 2. The clergy include, among others, 22 canons and parsons, mostly cathedral clergy, 15 priests entitled 'sir', four of whom, at least, were chaplains, and 6 ministers, Mr Alexander Farden, minister at Monimail, William Kirkpatrick, at Kilwinning, former monk there, Mr James Melville at Arbroath, Mr Peter Primrose at Mauchline, David Weymes at Glasgow and Mr Robert Wilkie at Kilmarnock. There is one monk, George Richardson of Newbattle, who received his charter in 1557.

No doubt the substance and resources of feuars within the same Group varied considerably and yet there must have been a similarity about their backgrounds. It would be unreasonable to expect a few isolated examples to give a clue to the whole picture but a closer look at some feuars, from particular neighbourhoods, will have the merit of present-day 'spot questioning' of the man-in-the-street, which has some value in making a survey although it does not tell the whole story.

Information about the circumstances of the following feuars is taken from their testaments. Testamentary material, while often illuminating, has to be used with caution. Since it is concerned only with movable goods it does not give an accurate indication of total 'wealth' much of which lay in the land itself, or, more correctly, in the rents or food-value derived from it. The land itself was an asset in that it could be wadset or even sold, though this expedient usually indicates that the seller was short of money,

either in general or for an immediate purpose. Even where movables are concerned, there was nothing to hinder a man from dispersing these, and cash if he had any, among his relatives and family before making up his will. The indications of a person's substance and social consequence come from facts other than 'totals' in his testament; whether he received fermes from sub-tenants, whether he owned property which he rented to others, or was himself a tenant, the extent to which he loaned money (everybody borrowed it!), the number of plough animals he owned, the kind of people whom he made oversmen of his testament and guardians of his children, whether he bought his goods locally or in the burghs, whether he himself was a rural craftsman, the presence of luxury items and actual money in his inventory.

The smaller feuars who have been 'interviewed', as it were, lived on land belonging to Coldingham priory, in Berwickshire, and to the abbays of Scone and Coupar Angus, in that part of the country between the Carse of Gowrie and Strathmore. Most of them come from Group 4, themselves, though one or two of them had contacts with people from other Groups. A short list of the feuars, with references to the source material will be followed in each case by a brief comment on their circumstances.

Coldingham Priory:

- 1 John Gray, in Eyemouth, son of Gavin Gray. Feued 1 husbandland and 1 cotland there. Feu-duty 13s 4d, with dues in kind. 2d increase. Granted 9 Sept. 1560. (Reg. of Feu Charters i, 276) Edinburgh Testaments 1581 (CC8/8/11 f.234)
- 2 Thomas Gray, son to Thomas Gray in Eyemouth. Feued a tenement of land in the commonty of Eyemouth. Feu-duty 9d, with 1 hen. Granted 12 Nov. 1557. (Reg. Feu Charters ii, 279) Edinburgh Testaments 1574 (CC8/8/3 f.226v)

- 3 Thomas Kady. Feued Cottage-land in Coldingham, occupied by him, and 2 butts of land in Bogangrene. Feu-duty 13s 4d, with 1 hen, 12 days' work, and 8d increase. Granted 4 July 1576. (R.M.S. iv, 2634) Edinburgh Testaments 1593 (CC8/8/25 f.370)
- 4 George Martin. Feued the Walkmill of West Reston with the mill lands. Feu-duty, £3 6s 8d with 2s 6d increase. (Reg. of Feu Charters ii, 272) Edinburgh Testaments 1570 (CC8/8/12 f.239)

The circumstances of the two Grays, who were probably related in some degree, varied slightly. John's is a testament dative since he 'wes cruellie slane' in May 1581, leaving a widow and five children. His Inventory amounted to £478 13s 4d and his free gear to £454 3s 4d. He owned 7 oxen. There is no mention of feu-duty to Coldingham, it may have been paid at Whitsunday, but he owed 'few maill' to George Ogilvy of Banff and Logan of Restalrig, both of whom held land in the area.

Thomas Gray's testament amounted to slightly less in round figures; £407 4s Inventory and £409 16s free gear, including 4 oxen and 43 sheep. On the other hand, he rented property to other people, a house in Eyemouth and a 'girnell' for which £3 'victuall maill' was owing to him from John Gibson in Edinburgh. He himself owed 'tack-duty' to Logan of Restalrig and his Whitsunday and Martinmas feu-duty to Coldingham Priory. Thomas Gray's wife was Margaret Douglas and, since his will was drawn up 'at the place of Whittinghame' in presence of Robert Douglas, parson and exhorter there, Margaret may have been the latter's daughter or sister and, possibly, a poor relation of Douglas of Whittinghame. In their respective feu charters the Grays are called occupants of the land which they feued. It is clear from their testaments that they also 'occupied' and laboured land in other places,

held from Ogilvy of Banff and Logan of Restalrig.

Thomas Kady was a cordiner in Coldingham, who presumably divided his time between cultivating the land which he held from the priory and in following his trade. The fact that certain people owed him 'few victuall' suggests that he may have sub-feued some of his land, possibly that in Bogangrene. He himself owed fermes to Lumsden of Blanerne. His Inventory, though small, £325 6s 8d, suggests that he had enough for his working and everyday needs, including leather to the value of £140 and £100 worth of victual and grain in his barnyard.

George Martin, who had taken the walkmill of West Reston in feu, has the smallest testament of the four; £165 8s Inventory and £55 2s free gear, though he did have 4 oxen and 20 sheep. There were owing to him a number of small debts, including one from Simon Pennango who, according to the priory's teind books, was involved in some way in the running of the estates.

The four Coldingham feuars are examples of small tenants, occupants of the land which they feued, who held land, also in feu-ferme, from other landlords at the same time. Some of them, like Thomas Kady, were local craftsmen and tradesmen supplying the needs of a community and perhaps sub-feuing their land in order to relieve themselves of the burden of cultivation, keeping enough in their own possession on which to grow food. Others, like Thomas Gray, might derive a little income from renting premises to others, such as storage accommodation to the land-speculators from Edinburgh and other burghs.

Scone:

- 1 David Robertson. $\frac{1}{4}$ of Sherifftoun and $\frac{1}{4}$ of Shephirdland, he himself occupying the first. Feu-duty in victual. Granted to himself in life-rent and to his son, John, and Margaret Grant, his wife, in feu. 20 November 1561. (Reg. of Feu Charters i, 58) Edinburgh Testaments c.1588 (CC8/8/19 f.109v)
- 2 Ranald Robertson. $\frac{1}{4}$ of Sherifftoun and $\frac{1}{4}$ of Shephirdland, he himself occupying the first. Feu-duty in victual. Granted 20 November 1561. (Reg. of Feu Charters i, 57) Edinburgh Testaments 1588 (CC8/8/20 f.174v)
- 3 Thomas Small, son of late Robert S. in Kynnochtrie. Three eighths of Kynnochtrie, occupied by Thomas Small in Fothrunis. Feu-duty £5 with 20s grassum, 25s increase, 7s 6d 'pittance' to the convent of Scone and dues in kind. Paid £200 to the commendator for the feu charter. Granted 12 Nov. 1560. (R.M.S. v, 932) Edinburgh Testaments 1592 (CC8/8/27 f.202)
- 4 William Small, son of Thomas S. in Fowderownis. Feued the lands of Fowderownis, with the Walkmill. Feu-duty 13s 4d, with 30s 8d 5-yearly grassum, 10s pittance and 38s 4d increase. Granted 7 August 1560. (Reg. of Feu Charters ii, 262) Edinburgh Testaments 1583/4 (CC8/8/25 f.168)
- 5 Patrick Anderson, son of Patrick A. in Ardgilzeane. Feued $\frac{1}{2}$ of Ardgilzeane, which he occupied, on resignation of the Master of Ruthven. Feu-duty £3 6s 8d with poultry, 13s 4d 5-yearly grassum and 16s increase. Granted, his father keeping the liferent, in August 1569 (CC8/8/28 f.137v)
- 6 John Duncan in the Mote of Erroll. Feued 2 acres in Clene, occupied by Janet Tait, widow of Simon White and resigned by Simon's brother, John White. Feu-duty 14s and dues in kind. Granted 25 Sept. 1563. (R.M.S. v, 1778) Edinburgh Testaments 1587 (CC8/8/28 f.157v)
- 7 Patrick Martin. Feued $\frac{1}{2}$ lands of Newmill, with $\frac{1}{2}$ of the mill and lands occupied by John Cok, who was probably his step-son. Feu-duty 50s, 10s grassum, 5s pittance and 6s 8d increase. Granted, in liferent and to his (?) step-son in feu, 22 August 1560. (Reg. of Feu Charters ii, 293) Edinburgh Testaments 1592 (CC8/8/24 f.199v)

The fortunes of the two Robertsons, who feued half the lands of Sherifftoun and Shephirdland between them in November 1561, turned out rather differently at the end of the day. At his death, Ranald, the

the second of the two, was designated 'sometime portioner in Shereftoun' suggesting not only that he had disposed of his lands there but that he had not replaced them with others. His Inventory, which consisted entirely of household goods and clothes, amounted to only £13 6s 8d. There is a suggestion that the loss of his living was not entirely due to his own mismanagement in that £40 was owing to him by other people, whereas no debts are recorded against himself.

David Robertson, on the other hand, while he had a small testament, £313 of Inventory and £258 10s of free gear, seems to have managed his affairs reasonably well in spite of being in debt to the amount of £54 10s. He owned 8 oxen, 9 cattle of various kinds, and employed a 'bowman', 'plewch-boy' and 'nolt hyrd'. His son, to whom the lands were originally set in feu, reserving his own liferent, seems to have pre-deceased his father as the latter made his grandson and daughter-in-law his executors and left to his grandson his plough, harrow, wain and oxen. He left £20 to a great-grandson, a cordiner in Perth. There is no mention of feu-duty to Scone. He requested to be buried in the abbey kirk.

The next two feuars, the Smalls, were probably related to each other. The link between the lands which they feued lay with Thomas Small who lived in Fothrunis but also held land in Kynnochtrie, probably on lease. Thomas's own son, William, feued the lands of Fothrunis, occupied by his father, while Kynnochtrie went to Thomas Small, younger, whose father had formerly lived there. The testaments of these two men suggest that they were bigger tenants than the Robertsons at Sherifftoun and were certainly more 'substantious' than

the small tenants of Coldingham priory.

William had an Inventory worth £1905 13s 4d and free gear to the value of £1938 13s 4d. He owned 41 oxen, all-told, 80 sheep and household goods amounting to £100. He had at least one sub-tenant. Thomas Small's Inventory amounted to £1258 13s 4d and his free gear to over 100 merks. At his death he owed feu maills to the earl of Gowrie as 'master of the ground' and certain teinds to the commendator of Scone.

Patrick Anderson, John Duncan and Patrick Martin were among the smaller tenants with free gear of just over £223, £537 and £441 respectively. Patrick Anderson owed teinds and silver maill to 'the place of Scone' and John Duncan fermes to the earl of Erroll and teinds to various tacksmen. All these tenants, with the exception of John Duncan, acquired sufficient land to enable them to be called 'portioners'.

Coupar Angus:

- 1 John Henderson, or Petre. Feued $\frac{1}{2}$ of Over Balbrogy, occupied by him. Feu-duty £4 with dues in kind. Granted 24 Feb. 1580/1. (R.M.S. v, 569) Edinburgh Testaments 1587 (CC8/8/20 f.250)
- 2 James Bissat. Feued $\frac{1}{2}$ of Over Balbrogy, occupied by him. Feu-duty £4 with dues in kind. Granted on resignation of James Henderson, of Petre. 12 Nov. 1580. (R.M.S. v, 567) Edinburgh Testaments 1592 (CC8/8/24 f.334)
- 3 Robert Aysoun, son of Patrick Aysoun of Tulymat. Feued $\frac{3}{4}$ of Arthurstane. Feu-duty £13 6s 8d with commutation of dues in kind. Granted, on resignation of the earl of Atholl, 9 Feb. 1569/70. (R.M.S. v, 2248) Edinburgh Testaments 1596/7 (CC8/8/32 f.220)
- 4 Andrew Donaldson, in Templetoun of Balgrugo. Feued 3 acres in Kethick, in Hauch of Batscheill called the Hoill, occupied by him, with a garden and other 2 acres. Feu-duty 38s, with 5s commutation of

dues in kind. Granted, on resignation of Alex. Baxter, 17 April 1571. (R.M.S. iv, 2000) Edinburgh Testaments 1572 (CC8/8/8 f.354)

5 Thomas Cok. Feued an eighth part of Carsgrange called the half of Newbigging. Feu-duty not given. Granted 6 August 1585. (R.S.S. liii, f.4) Edinburgh Testaments 1591 (CC8/8/27 f.211v)

6 Alex. Jackson, in Watterbutts. Feued the lands of Watterbutts, occupied by him, with an eighth part of Carsgrange and 4 acres, and a part called Newbigging. Feu-duty £23 18s 9d. with £4 13s 4d increase and a £500 grassum for the feu charter. Granted 10 Jan. 1558/9. (R.M.S. iv, 1788) Edinburgh Testaments 1576/7 (CC8/8/5 f.329v)

Of the six Coupar Angus feuars only Robert Aysoun, who feued $\frac{3}{4}$ of Arthurstane, is noticeably wealthier than the others, being the son of a small laird. Whereas he left free gear of £1859 6s 8d, 17 oxen and household goods to the value of £100, the others had free gear of just over £446 (Henderson), £840 (Bissat), £106 (Donaldson), £141 (Cok) and £178 (Jackson) respectively, with from 8 to 10 oxen each.

John Henderson and James Bissat were probably brothers-in-law, the latter's wife being Margaret Henderson. Both owed feu-duty to the abbey of Coupar Angus when they died and Bissat made Robert Aysoun of Arthurstane and Leonard Leslie, commendator of Coupar Angus, oversmen of his testament. Aysoun himself, through his wife Janet Blair, was related to a longer-established laird, William Blair of Balgillo, also a feuar of the abbey, whom he made one of his executors. Andrew Donaldson, 'who wes hurt in Brechin and deceist within ane month thereof', Thomas Cok and Alexander Jackson all owed the commendator a year's feu-duty at the time of their deaths.

It can be seen that although they all belonged to a group, for

whom a feu of church land was their first piece of heritable property, the 'substance' of these tenants varied even within one locality. In so far as a man's testament might be drawn up ten, twenty or even thirty years after he became a feuar, it is an indication, perhaps, of how he used the advantages accruing from heritable possession of his land rather than a clue to how big or how small a tenant he was when he received his charter. It is possible, too, that many feuars in Group 4, at the time when they were still lease-holders or rentallers, were better off than many lairds whose predecessors had held their land for several generations but who were finding it difficult to make ends meet.

The designation 'of' does not necessarily mean that a man held much land, or that he possessed a good deal of this world's goods. When we come across someone being designated 'of Middle Dubheid' there seems to be something in Alan Breck's jibe that some people had little more than the name of the farm-midden after their names.

A glimpse at the circumstances of some feuars in Group 2 reveals a variety of economic resources and social standing among them. These men held land in the Lanarkshire/Renfrewshire area and in north Ayrshire.

- 1 James Boyd of Kipps. Feued the mill of Carstairs, which was resigned to him by the last rentaller, with the mill lands. 1578. (R.M.S. iv, 2881) Edinburgh Testaments 1594/5 (CC8/8/28 f.186v)
- 2 Thomas Bailie of Ravenscraig. Feued, from his kinsman, Mr William Bailie, canon of Provan, the lands of Provan, extending to £20 lands. 1562. (R.M.S. v, 2209) Edinburgh Testaments 1584 (CC8/8/14 f.225v)

- 3 Gabriel Maxwell of Stanelie. Feued the 5 merklands of Corsebar from the abbot of Paisley. 1555. (R.M.S. v, 1238) Edinburgh Testaments 1579/80 (CC8/8/12 f.109v)
- 4 William Blair of Haylie. Feued the lands of Woodend, Woodland, Ristholm and Monksdaillie from the commendator of Kilwinning with a chamber and yard belonging to one of the monks. 1557-66. (Reg. of Feu Charters, i, 173; ii, 283) Edinburgh Testaments 1576 (CC8/8/5 f.167v)
- 5 William Barclay of Pearston. Feued the kirklands of Pearston parish church, extending to 17 acres. 1564/5. (R.M.S. v, 851) Edinburgh Testaments 1584 (CC8/8/14 f.146)
- 6 Andrew Hamilton of Letham. Feued the kirklands of Strathaven parish church with pasture in Nether Letham. bef. 30 Apr. 1585. (R.S.S. liii, 106v) Edinburgh Testaments 1571 (CC8/8/8 f.330)

James Boyd of Kipps, who left free gear of over £1419, had set his own lands in steelbow and was due over £1000 in fermes and annual-rents, his Inventory itself amounting to only £488 13s 4d. Thomas Bailie, in receiving a substantial feu charter, perhaps took upon himself more than he could manage since, at his death, his debts far exceeded his goods. His debts may have been partly due to long spells in Edinburgh; he owed a year's stable mail there. On the other hand, the earl of Huntly owed him £30 'fie and wagis', and Dalzeil of Dalzeil £11 for a 'goshawk and Tarzell'. He was a tacksman of teinds and his Inventory, apart from a little victual, consisted entirely of household gear and clothes. He may be one of those, of whom there is some evidence in the Testaments, who, having feued land, were absentee landlords living on the rents of their sub-tenants.

The middling lairds like Maxwell of Stanelie, Barclay of Pearston and Blair of Haylie seem to have stood a chance of remaining solvent, even if they had only moderate means. These men left free gear of

£538 14s, £610 3s and £435 12s respectively. It will be noted that these lairds were little better off than some of the tenants from Scone and Coupar Angus, in Group 4. Blair of Haylie's lands were set in steelbow and on those of Maxwell of Stanelie dues in kind were commuted. William Barclay, who held the small estate of Pearston near Irvine, had money in hand at the time of his death, including a gold rose noble, a double ducat, an angel noble and 5 crowns. He had been engaged in repairing the bridge of Pearston and left 40s for repairs to the parish kirk, with 'ane new bell quhilk he hes causit hing'. He referred the five lairds whom he made oversmen of his testament to his 'factor' who had charge of his 'compt buikis'.

Andrew Hamilton of Letham was slightly more substantial than the others, leaving an Inventory of £970 and free gear of £2009 8s 8d, over £1000 of which was debts due to him, including £260 from Sir James Hamilton 'his maister'. In addition to steelbow goods, he had 17 cattle, 54 sheep and 4 'plewch meris' and he was owing feu mailles at the time of his death.

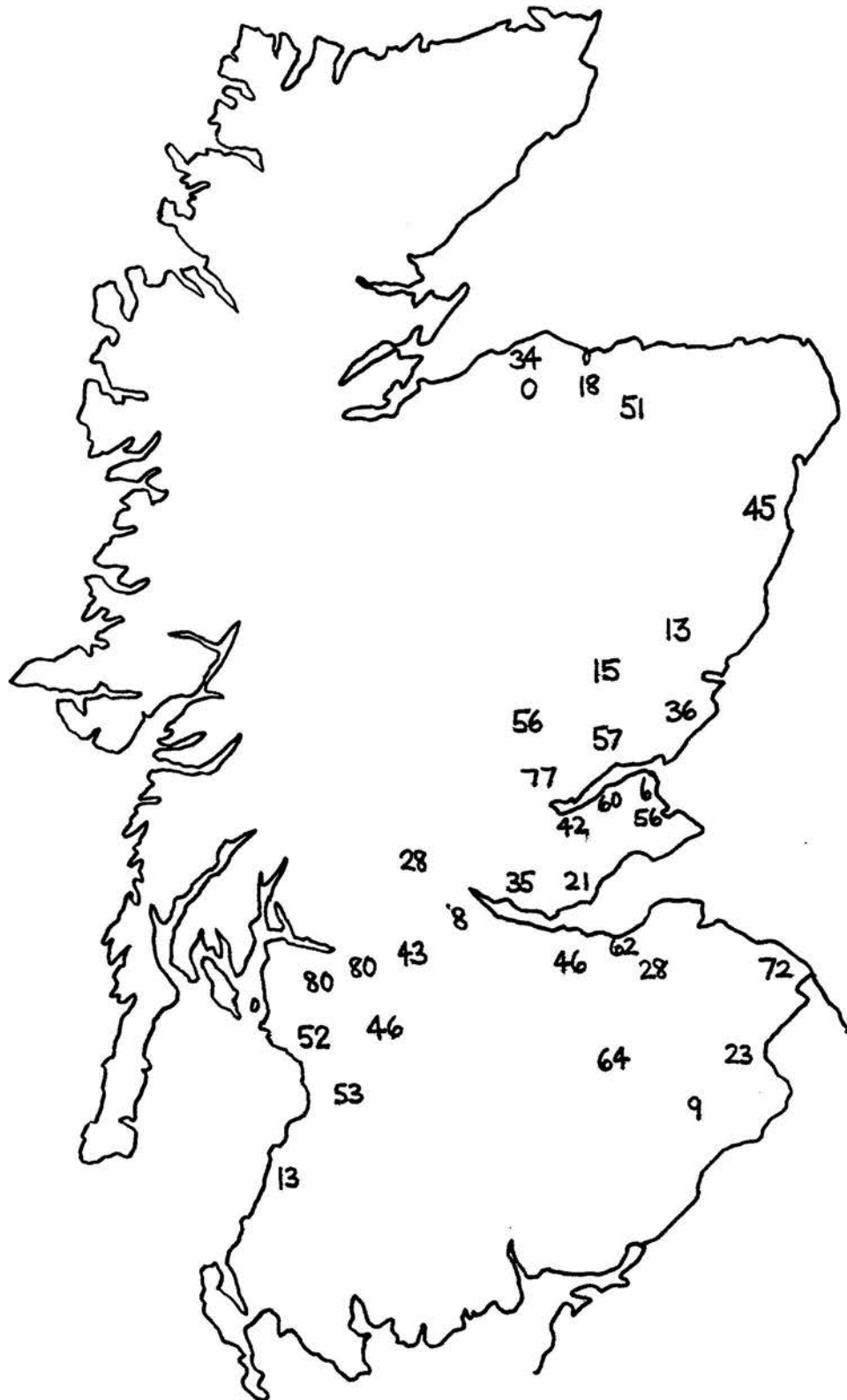
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In earlier chapters an examination of the circumstances surrounding the alienation of church property helped to shed light on the motivation behind feuing from the granters' standpoint. How much initiative came from the tenants themselves? How great was the threat from a middle-man? Were people compelled to feu land?

The answers to these questions, which can only be inferred from the sources rather than deduced with any certainty, lie partly in the



Map showing percentage
of feus granted to
'occupants' in certain
areas.



answer to another question - how much land was feued to 'sitting tenants' and how much to non-occupants or 'outsiders'? If we find that most of a barony was feued en bloc to a noble or laird, or in sizeable pieces to the commendator's relatives, then it looks as though the tenants had had little say in the matter. If, on the other hand, it was feued in small pieces to the occupants we may infer either that they were anxious to obtain heritable possession or that the landlord turned the land over to feu-ferme tenure for his own benefit, and profit, in which case the occupants may have been forced to feu or leave the land.

On the accompanying map are shown the percentages of grants to 'occupants' in 34 areas. In the cases of Aberdeen, Brechin, the Fife lands of the archbishopric of St Andrews and the abbeys of Jedburgh and Kelso the percentages given are those on the lands of the whole regality. Where baronies are 'detached' the name of the bishopric or monastery concerned has been given in brackets. In the remaining cases the lands represented are those bearing the name of the bishopric or monastery, or those which lay nearest to 'headquarters'.

The percentages have been calculated by taking the pieces of land separately and noting whether or not these were granted to occupants when first feued; in cases where land changed hands after it had been feued this has been discounted except where grants were later resigned in favour of sitting tenants, since this is an important development which did take place here and there. The intention has been to follow the spread of feuing over the land-surface, as it were, by concentrating on feus of individual territories and not by counting the feu charters.

There were two basic types of feuar, the first of which was divided into two categories. The 'occupant', so described in the charter, might be the person who laboured the land himself, or with his servants and cottars; in this category were the husbandmen and bigger tenants and also lairds whose forbears had lived on the land for several generations with the husbandmen and tenants as their sub-tenants. These occupants will be referred to as 'resident' in the following analysis. Secondly, an occupant might be a laird, or other person, who, though not personally supervising the cultivation of the land and, perhaps, not living in the neighbourhood, nevertheless had had a lease of the land prior to feuing; the grant of a feu to such a person did not mean a change of immediate landlord for the sub-tenants. Occupants in this category will be referred to as 'non-resident' in the analysis.

The other basic type of feuar, the non-occupant, comprised the 'middle-men' who took the feu 'over the heads' of the occupants, or on their resignation and who might be nobles, lairds or men drawn from the commercial and professional classes, merchants, lawyers, magistrates, crown officials and clergy. These were the feuars most likely to raise the rents of the tenants since they could afford to pay most for their feu charters and would wish to recoup themselves.

Leaving aside those areas underlined on the map - which will be fully dealt with in Part Six - we shall look at the other localities, noting the presence of feuars of the three types mentioned above, namely the 'resident occupants', 'non-resident occupants', previously holding the land on lease, and the 'outsiders' or 'middle-men'. The little

table for each area has been compiled with reference to the 'Groupings' in the Table of Feuars opposite page 188.

The feuing of the lands belonging to Pluscarden priory presents the most 'undemocratic' picture in all the areas examined. The monastery's lands were fairly extensive, stretching for something like sixty miles, from the boundaries of Banffshire and Moray to the kirklands of Dores on Loch Ness. P.F. Anson, in his book, A Monastery in Moray, lists 99 territories in the parish of Bellie, the baronies of Innes, Urquhart, Pluscarden and Tarnenan, with the kirklands belonging to the churches of Dores and Dalcross.² Feus of only 35 territories have come to light in the sources examined, relating to lands in the baronies of Urquhart and Pluscarden with three in the barony of Tarnenan, which may suggest that much of the land belonging to the priory was not set in feu, although we must always allow for the non-survival of charters. At any rate, the picture for Pluscarden is incomplete. The only grant to an occupant in the baronies just mentioned was that of ten acres of the toun-lands of Urquhart, with a piece of the 'Cruikitwood', feued in 1582 to James Geddie in Urquhart who was called a 'servant' of the commendator, Alexander Seton. In 1560 certain fishings in the river Spey were granted in feu to Alexander Innes of Crommy, 'for many years enjoyed by Alexander, his father and relatives.'

All other feus of Pluscarden land went to non-occupants, in many

2 P.F. Anson, A Monastery in Moray, 191.

cases, illustrating the extent to which the holder of a prelacy might alienate its temporalities for the benefit of his own family and friends. Alexander Dunbar, last pre-Reformation prior of Pluscarden, gave charters to six of his relatives, Robert Dunbar of Dores, John Dunbar, called 'surgeon', John Dunbar, brother of Patrick Dunbar of Sanquhar, Alexander Dunbar, natural son of James Dunbar of Suddie, Mr John Dunbar, natural son of the laird of Benethfield and Alexander Dunbar, son of Dunbar of Tarbart. During the commendatorship of James Douglas in the 1570s most of the barony of Pluscarden with certain lands in that of Urquhart, the mill of Grangegreen and the 'Newmill', in the barony of Tarnenan, and salmon fishings on the Spey were feued to Archibald Douglas of Pittendreich. In the 1580s, under the commendator, Alexander Seton, Sir John Seton received a charter of lands in the baronies of Urquhart and Pluscarden. George, Lord Seton, as iconomous for his son, gave a charter of the lands of Tulydavy in the barony of Altyre to Mr John Wood, senator of the College of Justice. The other feuars of Pluscarden were John Ramsay, a servant of prior Alexander Dunbar, and two burgesses of Elgin, William Gatherer and James Gibson.

Pluscarden priory/baronies of Pluscarden and Urquhart:

Occupant feuars:		Non-occupant feuars:	
Resident	- Group 8 ... 1	Group 2	..... 6
Non-resident	- Group 2 ... 1	Group 3	..... 2
	-	Group 6	..... 1
		Group 8	..... 1
	<u>Total</u> 2		—
	-	<u>Total</u>	10
			—

We now pass on to the lands belonging to the bishopric of Aberdeen, with a few pieces pertaining to one or two of the higher cathedral clergy, but excluding the manses of the canons and adjacent crofts and yards in the city since feus of this kind of property rarely seem to have affected the position of 'sitting tenants'. The Aberdeen lands, scattered throughout several baronies, were granted to 28 'occupant' feuars and 35 'non-occupants', with 5 'doubtful' cases.

The occupants include 14 persons who, from the circumstances given in the charters or from other sources, would appear to have cultivated the land in question, either by themselves or with sub-tenants, servants and cottars. One of these 'resident occupants' was a laird, Alexander Gordon of Knokepok, one was a cleric, sir Andrew Finlayson, vicar of St Maurice, who feued the croft lying next to his dwelling, and the others seem to have been husbandmen and the more substantial tenants, some of whom appear in the bishop's register of leases before receiving their feu charters.³

The 'non-resident' occupants of the Aberdeen lands, who had their leases converted into feu-ferme, were 4 lairds, Leslie of Bucquhan, Lumsden of Clovay, Ogilvy of Troscan and Strachan of Thornton, with the son of Seton of Meldrum, Mr Thomas Stewart, portioner of Mamelach, the bishop's 'servant', William Stewart, his eldest son, and five Aberdeen burgesses, Gilbert Collesoun, George Donaldson, Alexander Fraser, Mr Thomas Menzies of Kirkhill and Alexander Paip, simply called 'inhabitant' of the city. In this group, also, are two individuals named Patrick and John Gordon, who were doubtless related to some of the innumerable Gordon lairds in this part of the country but may, on the other hand,

³ Registrum Episcopatus Aberdonensis, i, 434-454, passim.

have been small tenants if only we knew more about them.

Of the 35 'non-occupant' feuars, the middle-men who now came between the bishop and the tenants, one was a nobleman, John, lord Glamis, and 14 were lairds, Burnet of Leys, Forbes of Pitsligo, Forbes of Cassindray, Gardin of Gardin, Gordon of Blairdynnie, Irving of Drum, Leith of Harthill, Leslie of Bucquhan, who also had a feu as an occupant of other lands, Leslie of Pitcapill, Alexander Livingston of West-quarter in Stirlingshire, Mr Robert Maitland of Auchencreve, Ogilvy of that Ilk, Seton of Auchinhufe and Strachan of Thornton, with a smaller landholder, Alexander Hervy of Buyndis and Mr George Gordon, constable of Ruthven and Badenoch. There were 3 sons of lairds, Mr William Gordon, son of Gordon of Lesmoir, John Gordon, son of Gordon of Straiton, and Robert Innes, son of the laird of Innermarkie. Five were burgesses of Aberdeen, George White, John Watson, Andrew Buk, George and Alexander Knowis, with several charters to Janet Knowis, daughter of the latter and the bishop's mistress, and a feu of the lands of Ardlair in the lordship of Clatt to the provost, bailies and community of the burgh. The non-occupant feuars also included 7 clergy, Mr John Kennedy, parson of Tullynessil, Mr Alexander Seytoun, chancellor of Aberdeen, Mr John Fraser, Martin Howesoun, chief clerk of the diocese, Mr Walter Stewart, sir William Myrtoun, master of the Song School, who received his charter in 1537, and James Lindsay, parson of Forglen. In the case of two feuars in this group only the names are given.

The foregoing details may be summarised thus:

Aberdeen:

Occupant feuars:

Resident: Group 2 ... 1
 Group 4 ... 11
 Group 5 ... 2

Non-resident: Group 2 ... 7
 Group 3 ... 5
 Group 8 ... 2

—
Total 28
 —

Non-occupant feuars:

Group 2 19
 Group 3 7
 Group 5 7
 Group 8 2

—
Total 35
 —

Doubtful whether 'occupant' or 'non-occupant':

Group 2 4
 Group 8 1

—
Total 5
 —

The greatest continuity of tenure occurred where people became 'owner-occupiers' as a result of feuing, particularly if feus of this kind were concentrated in a locality. In the case of the 'resident-occupants' in the Aberdeen table, however, the lands concerned were scattered throughout the regality, except in the case of the lands of Tulligreg, of which two sixth parts and a third were feued to the occupants Andrew Bane, Robert Watson and David Cheyne respectively and the lands of Kynmonitie, of which a half was granted to John Turner and a quarter to his son. The Kirkcoun of Banquhory-Devenick returned to the occupant, William Blindscheill, whose 'father and predecessors' had leased it although it appears to have been in the hands of George Gordon of Aberdeen just prior to its being feued. The charter mentions Blindscheill's sub-tenants.

Some 'non-resident-occupants' had held leases of the land concerned

for some time so that their becoming feuars need not have caused much dislocation, unless they chose to raise the rents. John Leslie of Bucquhan, who feued the lands of Bonningtoun in 1560, had held them on lease for 10 years previously.⁴ Some of these feuars acquired lands on the resignation of parents, as in the case of the son of Seton of Meldrum and Alexander Fraser and George Donaldson, both burgesses of Aberdeen. Mr Thomas Menzies, also a burgess, acquired several lands in the lordship of Fordyce on the resignation of his wife, Margaret Ogilvy, who, in turn, had inherited them from her father.

Apart from the high proportion of lairds among the non-occupant feuars, which might be expected, an interesting feature of the Aberdeen picture is the number of burgesses, one-fifth of the total, who had an interest in land which lay at a good distance from the burgh.

The lands of the bishopric of Brechin, like those of Pluscarden priory, show a small number of 'occupant' feuars, 7 out of a total of 35. All would seem to have been 'resident' in the sense of undertaking or, at least, supervising the cultivation of the land. These were John Stevenson and Alexander Ogilvy, who each feued a third of East Drums with a third of the moor called 'the Firth', David Croill and Alexander Lindsay, a quarter and an eighth of Keithock respectively, George Cramond, the lands of Newtown, John Kinneir, half the lands of Ballownie, and Charles Dempster, the lands of Balrownie and Belliehill.

⁴ Registrum Episcopatus Aberdonensis, i, 451.

The 'non-occupants' included two earls, Crawford and Argyll, and 7 lairds and other substantial proprietors, Lindsay of Sheriffbank, Mr James Cockburn of Nether Petforthie, John Chalmer of Newbigging, Hume of Manderstoun in Berwickshire, who feued the lands of Stracathro on the forfeiture of Captain Robert Lauder, Sir John Bellenden of Auchnoull, the Justice-Clerk, Mr John Hume of East Belleisk and Lichon of Ullishaven. There were also included the sons of Walter Graham of Drumblane and Straton of Kirkside, with Patrick Guthrie and Charles Murray, who were probably connected to lairds' families. Also among the non-occupant feuars were 4 citizens of Brechin, Mr John Cockburn, John Lydell, John Low and David Schewane, with William Kinloch, burgess of Dundee. There were charters to two servants of the earl of Argyll, John and Robert Stewart, and one to Mr Thomas Ramsay, commissary of Brechin. There are a few people of whom only their names are given.

The pattern at Brechin thus suggests a policy which strongly favoured outsiders:

Brechin:

Occupant feuars:

Resident: Group 4 ... 7

—

Total 7

—

Non-occupant feuars:

Group 1 2

Group 2 10

Group 3 5

Group 5 1

Group 6 1

Group 8 9

—

Total 28

—

The picture at Dunkeld was a brighter one for the tenants, where 56% of the feus went to the occupants. Thirty-eight of these feuars can be placed among the 'resident occupants'. Six of them were lairds while 24 are designated as living 'IN' the lands which they feued, these being mainly in the neighbouring territories of Caputh and Dulgarthill and, further up the river Tay, the lands of Dalguise and Dowally. The other 8 occupants were probably 'non-resident' lease-holders, Alexander Abercrombie of that Ilk, David Ogilvy, third son of lord Ogilvy, Mr Robert Crichton, advocate, Alexander Macky and John Moncur, citizens of Dunkeld, and three Edinburgh burgesses who are called 'tacksmen' of the lands which they feued. A number of feuars for whom no details are given but their names would appear to have been small tenants.

Of the non-occupant feuars at Dunkeld there were three members of the nobility, the earls of Atholl and Montrose and Helen Bryson, wife of the earl of Errol, 11 were lairds, or their relatives, 2 were burgesses, 2 were advocates, 2 Crown servants and one can probably be identified with the son of bishop Patrick Hepburn.

The pattern of feuars for Dunkeld is as follows:

Dunkeld:

Occupant feuars:

Resident: Group 2 ... 6
 Group 4 ... 24
 Group 8 ... 8

Non-resident: Group 1 ... 1
 Group 2 ... 1
 Group 3 ... 5
 Group 6 ... 1

Total 46

Non-occupant feuars:

Group 1 3
 Group 2 11
 Group 3 2
 Group 5 1
 Group 6 2
 Group 7 2
 Group 8 4

Total 25

The bishopric lands of Dunblane, where the number of feus to the occupants was, again, small may be quickly summarised. There were only 4 resident-occupants, including the Chisholms who had previously held the lands of Cromlix as the bishop's tenants, and 2 non-resident lease-holders.

A number of the non-occupant feuars acquired tenements of land and crofts in and around Dunblane itself, although the earl of Montrose received a big charter of land lying between Muthill and Braco; Chisholm of Cromlix added to his possessions with land in the parish of Dunblane, while Lord Oliphant and Murray of Tulibardine feued the kirklands of Findogask and Monzie respectively. James Stirling of Keir, who married the bishop's daughter, Jane Chisholm, had a grant of the lands of Auchinby in the stewartry of Strathearn. The feuars of Dunblane are heavily represented among the lairds and their relatives.

Dunblane:

Occupant feuars:

Resident:	Group 2 ...	6
		-
	<u>Total</u>	6
		-

Non-occupant feuars:

Group 1	2
Group 2	14
Group 3	1
Group 5	1
Group 8	4
	-

Total 22

Moving across into Fife we find that the proportion of feus to occupants is reasonably high. One exception to this, however, is on the lands belonging to St Andrews priory: neither commendator, James

Stewart, later Regent, nor Robert Stewart, bishop of Caithness, who granted all but one of the charters between them, gave many feus to tenants. Only three people are actually called 'occupant' in the charters. These were Mr David Balfour who, with his tenants, had already held the lands of Gregstoun before feuing them in December 1546, John Cranstoun, son of the laird of Thirlestanemains, who feued the detached lands of Wester Morestoun in Renfrewshire, belonging to the priory, which he already 'occupied', presumably as a non-resident lease-holder, and David Balfour of Balledmonth, who had possessed the kirklands of Forgund 'for a long time', latterly as the sub-tenant of the commendator's mother, Margaret Erskine, to whom they had been feued, and in 1560 paid £400 for a charter of them on her resignation.

There are 5 other feuars of the priory lands who were probably occupants although this is not actually stated in their charters. The lands of Gogstoun were feued in two third parts and two sixth parts to Andrew Geddie, Thomas Hagy, George Richardson and John Dewar respectively who were, in all likelihood, the resident occupants: they have been included as such in the Table of Feuars for the Priory. The same is probably true of David Gulyne who was given a charter of 2 acres in Innerbrig in Leuchars parish.

All other feuars of the priory were non-occupants. They included Andrew, lord Ochiltree, Margaret Erskine of Lochleven, William Kirkcaldy of Grange, John Strachan of Thornton, James Colville of East Wemyss, Learmonth of Balcomie, Bruce of Pitlaithie and Andrew Kinninmonth of Craighall, with one or two citizens of St Andrews and Mr John Winram, Superintendant of Fife. Feus were also given to 3 servants of the

commendator, the Lord James Stewart, Henry Cairns, David Orme and Henry Lawmonth. David Orme, whose family came from Newburgh, received 3 charters of the priory lands and 2 from the abbot of Lindores. In this area lairds and those who already had heritable possession of land seem to be the majority of the feuars.

St Andrews Priory:

Occupant feuars:		Non-occupant feuars:	
Resident:	Group 2 ... 1	Group 1	3
	Group 4 ... 5	Group 2	15
		Group 3	2
Non-resident:	Group 2 ... 2	Group 5	1
	-	Group 6	1
		Group 8	-
	<u>Total</u> 8		-
	-	<u>Total</u>	22
			-

The pattern of feuars on the Fife lands belonging to the archbishopric of St Andrews differed greatly from that on the Priory lands, 56% of the feus going to the occupants, exactly the same percentage as in the lordship of Dunkeld. Certain territories were set in feu, in small pieces, to the tenants who cultivated them. Feus of this kind were granted to 3 tenants at Boarhills, 4 at Craigfoodie, 2 at Cunnoquhie, 6 at Kincahill, 6 at Letham, 8 at Radernie and to 78 inhabitants of the South Ferrytoun of Portincraig, whose charters contained small portions of arable land, houses, yards and premises. Alexander Winchester, citizen of St Andrews, seems to have been a 'non-resident' occupant of the lands of Kinglassie, of which he and his father were called 'naturalis et antiqui tenentis'.

Of the non-occupant feuars one was a noble, the earl of Argyll, 12 were lairds or their relatives, 2 were citizens of St Andrews and 2 were clergy, Gavin Hamilton while still dean of Glasgow, in 1549, and Mr Alexander Farden, minister at Monimail. The pattern of feuars for the archbishopric, then, shows a high proportion of 'resident-occupants'.

St Andrews Archbishopric:

Occupant feuars:		Non-occupant feuars:	
Resident:	Group 4 ... 108	Group 1	1
(including 78 tenants		Group 2	12
of South Ferrytoun of		Group 3	2
Portincraig)		Group 5	2
		Group 8	2
Non-resident: Group 3 ... 1			—
			—
<u>Total</u> 109		<u>Total</u>	19
			—

The comparatively small estates of Balmerino abbey in north Fife show a fair number of grants to 'resident occupants', including 2 at Starrbank, 4 at Dewcherone, 2 at Bottomcraig and 5 at Coultra, with other feus of this kind in one or two other places. Non-resident occupants included Learmonth of Balcomie and David Balfour of Balbuthie who 'occupied' parts of Newgrange, Clekanyscleuch, Battelhaw, Corsefaulds, Coultra, Byris and Dewcherone before he obtained a feu charter of them in 1569.

The non-occupant feuars of Balmerino included the neighbouring lairds of Kynnear, Naughton, Lochleven and Creich, with the sons of Kynnear and Moncrieff of that ilk and George Ramsay, Burgess of Dundee. There were also 4 persons about whom nothing is known but their names

but who, from the context of their charters, would appear to have been small tenants. These were John Durham and Helen Bunch, each of whom feued 4 acres of the Barncroft at the abbey, Robert Bolland, who acquired 7 acres of Coultra, the remainder of which was feued to the tenants, and George Ramsay in Coultra, who feued a toft and yard beside the abbey.

Like the Table of Feuars for the archbishopric of St Andrews, that for Balmerino shows a fair proportion of small tenants.

Balmerino:

Occupant feuars:

Resident: Group 4 ... 14

Non-resident: Group 2 ... 2

Total 16

Non-occupant feuars:

Group 2 6

Group 3 1

Group 4 4

Group 8 2

Total 13

The 'resident-occupants' on the regality of Lindores abbey consist of the 5 tenants who feued varying amounts of the Grange of Lindores and John Condie in Kinloch who feued a croft there. Two lairds, Orme of Mugdrum and Seton of Lathrisk, were 'occupants' of the lands of Haltounhill and Lumquhat respectively: Orme's charter mentions his sub-tenants.

The non-occupants included 3 members of the Philp family, the abbot's relatives, Mr James McGill of Nether Rankeillour, Clerk-Register, who had a charter of 56 oxgangs of the Grange, in which the names of the occupants are given, Andrew Leslie, son of the earl of Rothes, and John

Calve, burgess of Newburgh. It is remarkable, with the Lord Clerk Register's interest in the alienation of the abbey's property, that any tenants of the Grange should have feued their lands at all.

Lindores: (in Fife)

Occupant feuars:				Non-occupant feuars:			
Resident:	Group 2 ...	1		Group 1	1		
	Group 4 ...	5		Group 2	6		
Non-resident:	Group 2 ...	2		Group 3	1		
				Group 8	2		
			—				—
	<u>Total</u>	8		<u>Total</u>	10		
			—				—

The small percentage of feus to occupants on lands in Fife and Kinross belonging to Dunfermline abbey is partly due to the fact that in 1563 Mr Robert Richardson, commendator of St Mary's Isle and then Treasurer of the realm, received from the commendator of Dunfermline, Robert Pitcairn, three charters which conveyed, among others, no less than 77 territories in Fife and Kinross, probably comprising most of the regality in that sheriffdom. Objection to this wholesale alienation of the property to an outsider took active form. This may have come from the tenants' side for in the summer of 1566, in an action raised against the commendator and Richardson by Elizabeth (elsewhere called Katherine) Halkhead and her daughter Elizabeth Danielston, whom the Lords had already judged to have the 'best kindness' to the lands of Braidly and Petlevir, it was stated that letters had been sent from the Queen to the commendator commanding him to 'set the whole lands (of Dunfermline) to the old, kindly possessors', which

letter, so it was asserted, the commendator had so far refused to put into operation.⁵

In actual fact, however, the abbey's Register of Tacks reveals that since September 1565 Richardson had been systematically resigning lands all over the regality in favour of the tenants.⁶ A resignation in favour of Katherine Halkhead is dated August 1566, a few months after she raised the action in the court.⁷ No doubt Richardson received considerable financial compensation for the resignations. Altogether, between September 1565 and November 1566 he resigned 66 separate pieces in favour of the same number of tenants. No charters to any of these small tenants have turned up in the sources examined but if these people did receive them the number of occupant feuars of Dunfermline would greatly outnumber the non-occupants.

As matters stand, since so many territories were concentrated in the charter of one feuar, Richardson, reducing the proportion of lands granted to occupants to 21%, the actual number of occupant feuars, compared with non-occupants, is fairly high - 22 as against 29.

Among the occupants are 13 who may be called 'resident'. The 9 'non-resident' occupants include the brother of Bruce of Airth, David Boswell of Glasmonth, John Betoun of Capildra, Mr Abraham Crichton, provost of Dunglas, Robert Colville of Cleish and the last abbot's son, Peter Durie.

The non-occupants include, as usual, a high proportion of lairds

5 Register of Acts and Decreeets, xxxv, f.294.

6 Register of Tacks of Dunfermline abbey, CH 6/3/1 ff.81v-111.

7 Ibid., f.109v.

with John, lord Glamis, 3 successive chamberlains of the monastery as well as the 'janitor' and 'officer', 2 burgesses, one in Burntisland and one in Dysart, and David Hamilton, Chatelherault's son, who received a feu of land forfeited by John Melville of Raith.

Dunfermline: (Fife and Kinross)

Occupant feuars:		Non-occupant feuars:	
Resident:	Group 2 ... 1	Group 1	2
	Group 4 ... 12	Group 2	23
		Group 3	2
Non-resident:	Group 2 ... 6	Group 7	1
	Group 5 ... 1	Group 8	1
	Group 8 ... 2		
	—	<u>Total</u>	29
	<u>Total</u>		—
	22		
	—		

The feuars of Culross abbey present a ratio of 17 occupants to 35 non-occupants. Of the former, 12 would appear to have been 'resident', the other 5 holding leases prior to receiving their feu charters. These non-residents were Gilbert Primrose, son of a Culross burgess, Zachary Pont, son of the provost of Trinity Collegiate church, Edinburgh, Alexander Gaw of Maw, a local landholder, Adam Erskine, son of Erskine of Little Sauchie, and Katherine Elphinston, widow of Callendar of Maner.

The non-occupants included John, lord Erskine, John Porterfield, burgess of Edinburgh, James Kinross of Kippenross, the sons of Colville of East Wemyss and Bruce of Clackmannan and a few other inhabitants of Culross and relatives of local lairds. The picture at Culross is of the feus going mainly to local proprietors and their

sons, to inhabitants of the burgh, with one or two Edinburgh burgesses who were prepared to speculate in the mineral resources of this area.

Culross:

Occupant feuars:

Resident: Group 2 ... 2
Group 3 ... 1
Group 4 ... 2
Group 6 ... 1
Group 8 ... 6

(probably
inhabitants
or burgesses
of Culross)

Non-resident: Group 2 ... 3
Group 3 ... 1
Group 5 ... 1

Total 17

Non-occupant feuars:

Group 1 1
Group 2 14
Group 3 4
Group 8 16 (Some of
— these may
— be inhab-
Total 35 itants or
— burgesses
— of Culross)

On the south side of the river Forth the baronies of Kerse in Stirlingshire and Broughton, in the sheriffdom of Edinburgh, both belonging to Holyrood abbey, differ considerably in the percentage of feus granted to occupants: 8% and 46% respectively.

Only two of the feuars in Kerse were occupants. One was a 'resident', Alexander Scott 'indweller in the toun of Falkirk', who feued a cotland there with a malt-kiln and other premises, and the other was William Wotherspoon, burgess of Linlithgow, who in 1527 leased the lands of Little Saltcoats for 19 years but 6 years later had the lease converted into a feu charter.

The non-occupant feuars in this barony included Robert Gib 'the king's familiar servant', who, in 1538/9, received a charter of 6 lands

of which the names of the occupants are given, Alexander Chalmer, who feued the lands of Abbotsgrange and others and, in 1551, Chatelherault, then earl of Arran, whose charter conveyed 16 territories, two of which were later feued to the son of Callendar of Maner.

The pattern of feuars in the barony of Kerse is as follows:

Holyrood/Kerse:

Occupant feuars:		Non-occupant feuars:	
Resident:	Group 4 ... 1	Group 1	1
		Group 2	2
Non-resident:	Group 3 ... 1	Group 7	1
		Group 8	1
			—
	<u>Total</u> 2		<u>Total</u> 5
	—		—

In the barony of Broughton, which included lands lying in what is now the western suburb of Edinburgh and in East Lothian, there were 11 occupant and 14 non-occupant feuars. Of the occupants 6 were 'resident' and 5 had leases before taking the land in feu.

Grants to non-occupant feuars included substantial charters to Adam Bothwell, son of Bothwell of Quhelpside, James, lord Fleming, and Margaret Murray, wife of the commendator, bishop Adam Bothwell of Orkney.

Holyrood/Broughton:

Occupant feuars:		Non-occupant feuars:	
Resident:	Group 2 ... 1	Group 1	2
	Group 4 ... 5	Group 2	6
		Group 3	3
Non-resident:	Group 2 ... 2	Group 5	1
	Group 3 ... 3	Group 6	1
		Group 8	1
			—
	<u>Total</u> 11		<u>Total</u> 14
	—		—

Six of the occupant feuars of Dunfermline abbey's lands in the lordship of Musselburgh were people who had previously held leases but other six were 'resident occupants', husbandmen, in fact, of the touns of Inveresk and Monktonhall. In 1563 Mr Robert Richardson, the Treasurer, received a charter of large portions of these territories with the mines of Wallyford and Woolmet. Twenty years later his son, James Richardson, who had acquired the lands of Smetoun with the fortalice there and that of Pinkie, had a confirmation charter of all the lands feued to his father. Henry Durie, son of abbot Andrew Durie, had a charter of the two mills of Musselburgh. It is interesting to find that the 6 husbandmen of Inveresk and Monktonhall retained their lands there in spite of Richardson's accumulation of land in the vicinity.

Dunfermline/Musselburgh:

Occupant feuars:		Non-occupant feuars:	
Resident:	Group 4 ... 7	Group 2	2
		Group 7	1
Non-resident:	Group 2 ... 4		—
	Group 3 ... 2		
	—	<u>Total</u>	3
	<u>Total</u> 13		—
	—		

More land was feued to the tenants in Newbattle abbey's detached baronies of Monkland and Friermure, in Lanarkshire, than in the lordship of Newbattle itself, 43% compared with 28%. Taking the Lanarkshire lands first, we find that all but one of the 14 occupant feuars were 'resident', 5 of them being very small tenants indeed. Thomas,

John and Robert Williamson in Shortcleuch feued these lands between them in small pieces. John Hamilton of Kirkley received a feu of the tower and lands of Haggs, 'long possessed by John and his predecessors.' The lands of Gilgarth, granted to David Forsyth of Dykes on the resignation of his grandmother, were said to have been possessed 'by his ancestors'.

The non-occupant feuars in Monkland included Alexander Home, son of Home of Coldenknowes, who acquired the lands of Gartsherrie from which he later tried to evict the occupants,⁸ Sir Alexander Bruce of Airth and James Carmichael, an Edinburgh burgess. The pattern of feuars on the Lanarkshire lands is given before looking at the lordship of Newbattle.

Newbattle/Monkland and Friermure:

Occupant feuars:			Non-occupant feuars:		
Resident:	Group 2 ...	1	Group 1	1	
	Group 4 ...	12	Group 2	8	
			Group 3	1	
Non-resident:	Group 2 ...	1	Group 8	6	
<u>Total</u> 14			<u>Total</u> 16		

Although in the lordship of Newbattle itself the amount of land feued to occupants was less than in Lanarkshire, nevertheless, eight 'resident' occupants were obviously small, local tenants as were four of the non-occupant feuars who, for some reason, acquired pieces of land and property near Newbattle which were occupied, or had been occupied previously, by other tenants of the same standing as themselves.

⁸ Register of Acts and Decrees, xx, f.243.

The other non-occupants include the usual proportion of lairds and burgesses.

Newbattle/lordship of Newbattle:

Occupant feuars:		Non-occupant feuars:	
Residents:	Group 4 ... 8	Group 2	7
		Group 3	5
Non-resident:	Group 2 ... 3	Group 4	4
	Group 3 ... 1	Group 5	1
	—	Group 8	7
		—	
	<u>Total</u> 12		<u>Total</u> 24
	—		—

The feuing of the barony of Coldingham, which consisted mainly of grants of small pieces of land around the towns of Coldingham and Eyemouth, with parts of the commonry of Eyemouth, was definitely in favour of the local tenants. It may be that the war-devastated lands of the priory were not sought after by bigger, would-be feuars or that the 'market price' of such land was within the pocket of the tenants. At the same time it is worth bearing in mind that, as was mentioned earlier, king James V obtained from the pope a 'blanket' licence to set in feu the lands belonging to those houses held by his sons in commendam and that a lot of the Coldingham land was being feued by John Stewart, the commendator, while his half-brother was feuing the barony of Kylesmure to the sitting tenants: it is possible that at Coldingham, as at Melrose, there had been a definite arrangement between landlord and tenants.

Coldingham:

Occupant feuars:

Resident: Group 2 ... 2
 Group 4 ... 26
 —
 Total 28
 —

Non-occupant feuars:

Group 1 1
 Group 2 3
 Group 4 2
 Group 8 2
 —
 Total 8
 —

The total number of feu charters for Jedburgh abbey is small and, consequently, the number of feuars. Lencie Ainslie, in Oxnamtounhead, is the only individual who can safely be called a 'resident occupant' of the lands of Oxnamtounhead, which he feued. Two other occupants were burgesses of Jedburgh and a fourth William Douglas of Bonjedburgh who, in 1541, had a charter of the lands of Toftylaws and Paddpuyll, which he already held on a 19-year lease.

The non-occupant feuars of Jedburgh were Marion Haliburton, one of the 3 co-heiresses of Haliburton of Dirleton, who had a grant of 39 territories and a house in Jedburgh, John Hume of Huttonhall and, later, his son, Alexander Home, who was given a feu of the abbey's 2 grain mills.

Jedburgh abbey:

Occupant feuars:

Resident: Group 4 ... 1
 —
 Non-resident: Group 2 ... 1
 Group 3 ... 2
 —
 Total 4
 —

Non-occupant feuars:

Group 2 4
 —
 Total 4
 —

In the case of Kelso abbey we again find a difference in the pattern of feuing on the abbey's lands in Roxburghshire and in the barony of Lesmahagow in Lanarkshire. In Roxburghshire, where only 23% of the feus went to the occupants, there were 6 occupant feuars and 10 non-occupants. All the occupants appear to have been 'resident'.

Kelso abbey/Roxburghshire:

Occupant feuars:			Non-occupant feuars:		
Resident:	Group 2 ...	2	Group 1	1	
	Group 4 ...	4	Group 2	4	
		-	Group 3	1	
			Group 7	1	
			Group 8	3	
	<u>Total</u>	6			
		-			
			<u>Total</u>	10	

As at Coldingham, the feuing of the barony of Lesmahagow was definitely in favour of the tenants. The only non-occupant feuars were Sir James Hamilton of Finnart who, in 1532, obtained a charter of the castle of Nethan, or Craignethan, with 22 neighbouring territories (which keeps the amount of actual land feued to occupants at Lesmahagow down to 46%) and David Collace, son of Collace of Balnamone, who received a charter of 8 territories in 1576.

Of the 22 occupant feuars, one, Alexander Hamilton of Letham, had had a lease of the lands of Little Kype before feuing them in 1542, but the others were all 'resident' occupants.

Kelso abbey/Lesmahagow:

Occupant feuars:			Non-occupant feuars:		
Resident:	Group 2 ...	6	Group 2	2	
	Group 4 ...	15			
Non-resident:	Group 2 ...	1			
			<u>Total</u>	2	
	<u>Total</u>	22			
		-			

The high proportion of feus to the occupants of Melrose abbey lands in Roxburghshire is remarkable when we consider that this part of the property changed hands during the unsettled political conditions of the later 1560s. On 24 October 1566 Michael Balfour, the commendator, obliged himself to give the earl of Bothwell a charter of all the Melrose lands 'not already set in feu'.⁹ On 4 March 1567/8, after Bothwell's fall, the commendator gave the Regent Moray 5,000 marks for Bothwell's escheat and thereafter feued to Alexander Balfour of Denmylne all the Melrose lands which Bothwell had forfeited.¹⁰ On 11 June 1568 Denmylne resigned into the commendator's hands the lands of Newstead in favour of the 'kyndlie tenentis therof alanerlie'.¹¹ Provyding alwayes that in cais he dispone not the samen to the kyndlie tenentis or that thai can not aggreie therupoun ... anent the fewis therof and fulfillis not the aggreance, that the said Alexander salbe reponit agane be the said comendatar to his ryt of the samyn lyk as if this present resignatioun had never bene maid.' On 14 December 1586 there were confirmed feus of the lands of Newstead to 32 sitting tenants.¹² Other lands, feued to the tenants on the resignation of an 'outsider', were those of Lessuden which were first feued to Arthur Sinclair in 1539/40 and were resigned by Mr Henry Sinclair, who had inherited them, in 1556 and thereafter granted to a number of tenants.¹³ The final pattern of feuars on the Melrose lands in Roxburgh is as follows:

9 Register of Deeds, viii, f.427.

10 Ibid., ix, f.262; Register of the Great Seal, iv, 1819.

11 Morton Papers: GD 150 Box 54, 11 June 1568.

12 Register of the Privy Seal, liv, f.153v.

13 Melrose Regality Records, iii, 232-237.

Melrose/Roxburghshire:

Occupant feuars:

Resident: Group 2 ... 1
 Group 4 ... 81

Non-resident: Group 3 ... 1
 Group 4 ... 1

—
Total 84
 —

Non-occupant feuars:

Group 1 2
 Group 2 13
 Group 3 1
 Group 4 2
 Group 8 2

—
Total 20
 —

Since the feuing of Melrose's barony of Kylesmure began in earnest in implementation of the agreement of May 1555, the feuars were mainly kindly tenants including small tenants who farmed the land themselves, or with their cottars and servants, and lairds whose families had long been resident in this part of the upper Ayr valley - the 'Lollard country', in fact. The land was feued, at times, in very small pieces in an area which was sufficiently highly populated to warrant the erection of a new parish around Muirkirk, after the Reformation, a district previously served by a quasi-parochial chapel.

As can be seen from the Table below, in the case of 19 feuars only their names are given (Group 8). It is almost certain, however, that many of these people were small tenants. This seems to be a safe assumption to make, for example, about the 6 tenants who feued the lands of Meklewood in the small pieces of which they were the occupants, the pieces ranging from 2s worth to 13s 4d worth, with one piece valued at 22s.

Melrose abbey/Kylesmure:

Occupant feuars:

Resident: Group 2 ... 15
 Group 4 ... 32
 Group 8 ... 19

Non-resident: Group 2 ... 2

—
Total 68
 —

Non-occupant feuars:

Group 2 16
 Group 3 1
 Group 4 3
 Group 5 1
 Group 8 4

—
Total 25
 —

The feuing of Crossraguel abbey's lands in Carrick illustrates why it has been necessary to work out statistics not only to show the amount of land granted to the occupants, but also with regard to the pattern of the feuars themselves and the groups which they represent. In the case of Crossraguel, the amount of land feued to the occupants is only 13% of the whole, but this is because the earl of Cassillis and David Kennedy of Pennyglen received between them 24 territories which, in theory at least, might have been feued to the occupants. On the other hand, the feuars themselves are divided into 8 occupants and 9 outsiders.

Of the former, Duncan Fergusson of Knockgarron, Gilbert Kennedy of Bog and William Kennedy of Brunstoun all feued land which they occupied as tenants of the abbey: in the case of the two Kennedys the charters refer to their sub-tenants. The other 'occupants' were Thomas Fergusson in Thraiff, David Kennedy in Balserroch, John Gervane in Caldwellstoun and Adam Boyd in Penkill, all of whom held considerable lands of which their feu charters gave them heritable proprietorship.

William Kirkpatrick, son of John Kirkpatrick, bailie of Ayr, received a feu of the lands of Clonlucht of which his father had already had a lease.

Of the non-occupants, the earl of Cassillis, in 1575, obtained from the commendator, Alan Stewart, with whom he was on perpetually bad terms, a large grant including the mains of Crossraguel, 2 of the abbey mills and fishings on the river Girvan, and David Kennedy of Pennyglen received lands in the parish of Kirkoswald and those of Baltersan next to the abbey itself. Other non-occupants were James Stewart of Cardonald, the commendator's brother, Kennedy of Bargany, Hunter of Courtoun, Kennedy of Ardmillan and a laird from north Ayrshire, John Fullerton of Dreghorn, who received lands in Kirkoswald parish as well as a detached piece in Cunningham. The pattern of feuars is as follows:

Crossraguel abbey:

Occupant feuars:

Resident:	Group 2 ...	3
	Group 4 ...	4

Non-resident:	Group 3 ...	1
---------------	-------------	---

<u>Total</u>	8
--------------	---

Non-occupant feuars:

Group 1	1
Group 2	7
Group 3	1

<u>Total</u>	9
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The general picture which emerges of the areas so far examined is of a situation in which the opportunity to acquire heritable tenure of

Digest of the Pattern of Feuars on the
Ecclesiastical Estates examined in the
second part of Chapter Five

Occupant Feuars

<u>Resident:</u>	Group 1	-	
	Group 2	49	
	Group 3	2	
	Group 4	384	- 71% of 'occupant' feuars in this group
	Group 5	2	
	Group 6	1	
	Group 7	-	
	Group 8	33	

Total 471

<u>Non-resident:</u>	Group 1	1	
	Group 2	35	
	Group 3	22	
	Group 4	1	
	Group 5	2	
	Group 6	1	
	Group 7	-	
	Group 8	4	

Total 66 - 'occupants' represent 58%
of all feuars

Non-occupant Feuars

Group 1	24
Group 2	210
Group 3	42
Group 4	16
Group 5	16
Group 6	6
Group 7	3
Group 8	69

Total 386

land - however this came about - came the way of most classes of Scottish society and was not monopolised by those whom we might expect to have had most social and financial pressure behind them.

The significant features are the large number of feuars who were occupants of the land which they acquired, the fact that only 12% of them were 'non-resident' and that 71% of the occupants who feued their holdings were of less social and economic consequence than the longer-established lairds. The group-representation on the table opposite reflects that on the general table of feuars, already given.

Of course, there are reservations and qualifications to be made. No doubt there were plenty of bonnet lairds 'on the make' before feuing snowballed towards the middle of the sixteenth century but it certainly added to their ranks. It must be admitted, too, that the border-line between Groups 2 and 4 is not always easily discerned since, in some cases, 'John X IN Y' may have been of more consequence in a locality than 'John X OF Y' when his social affiliations and economic resources are taken into account, even though he may not have had heritable tenure of his holding. Again, the term 'laird' is somewhat vague though, for the present purpose, anyone designated 'OF' has been placed in this category.

It might be objected that the number of 'occupants' is inflated because of the exceptionally large numbers of kindly tenants who obtained feus in particular localities such as Lessuden and Newstead (Melrose) and Portincraig (St Andrews). I would argue that the inclusion of these numbers in the reckoning is perfectly valid. Since some landlords feued heavily-populated areas en bloc to 'outsiders', the example

of Newstead and similar places, where the feus went to large numbers of sitting tenants, is all the more significant and deserves all the more to be taken account of. It is as relevant to count the small feuars of one locality as to take account of them when spread over the whole of a regality.

One of the most recent commentaries on the movement is to be found in T.C. Smout's 'A History of the Scottish People'. After considering the financial outlay involved in obtaining a feu charter, Dr Smout writes: 'These considerations often put the lands beyond the reach of the peasants who farmed them when they came on to the market, but for the old nobility, the lairds and for rich urban incomers from trade, the law and court office this presented a golden opportunity of adding to their estates or of buying one for the first time.' He continues, '... in a few areas, however, especially in those remote from Edinburgh or any other major burgh that could contain a nucleus of buyers ambitious for land, the church and crown appear to have alienated at lower rates and in smaller parcels, so that the larger peasants (perhaps generally the kindly tenants ...) had a better chance to buy their holdings ... the owner-occupier, the equivalent of the English yeoman, was otherwise a relative rarity in Scottish society.'¹⁴

Dr Smout's context of economic and commercial speculation is an advance on the old-fashioned 'land-grabbing' image of the feuing movement but there are one or two points in his analysis which are not entirely borne out by the facts, one of these being the inference that

14 T.C. Smout, A History of the Scottish People, 137.

landlords sold to the peasants at bargain prices in areas where there were not likely to be bigger buyers, namely, nobles, lairds, merchant-burgesses, lawyers and crown officials.

One of the most interesting questions which arises from the pattern of feuars, one which it is often impossible to answer from the sources, is how so many small tenants came to receive feus of their holdings in places where the influence of such 'outsiders' was at work, or might be expected to have been at work. On the lands of Holyrood abbey which lay between Edinburgh and Corstorphine the feuars included not only lord Fleming, Sir James Forrester of Corstorphine, Douglas of Borg and the brother of Carmichael of Medowflat but also John Liston in Saughton, John Leirmonth in Saughton, James Watson in Saughtonhall and Andrew Bartilmo in Caldcotts, the last four feuing the land which they occupied. The 6 Edinburgh burgesses who feued land from the commendator mainly acquired crofts and premises around the abbey itself. William, lord Ruthven, acquired several buildings, including the abbey kitchen and adjacent yards. James Bannatyne, writer to the signet, feued an acre of land beside the chapel of St Ninian.

There were rich merchants in Glasgow yet 80% of the barony, around the city, was feued among the rentallers. The lands of Balboughty, Sherifftoun, Lethendy, Ardgilzean, Clien and Innerbuist, belonging to Scone abbey, all of which were feued among the small, sitting tenants, lay on the doorstep not only of the Perth burgesses but of families like the Murrays and Ruthvens, the latter being the abbey bailies. The Master of Ruthven feued only 3 territories with a piece known as the Hoill of Clien. In the barony of Strathisla, belonging to Kinloss

abbey, where lord Saltoun and several substantial lairds acquired land, just over half the feus went to small tenants. Without looking for further examples it seems safe to say that lands cannot be readily divided into those feued to local tenants and those feued to land speculators.

Besides, members of the commercial and professional classes could, and did, feu land almost anywhere since they drew rents from the sub-tenants and did not need to be in daily direct contact with the locality. Burgesses feued land at a good distance from the burghs to which they belonged just as lairds feued land which was often far away from the nucleus of their own territorial possessions. This sometimes happened because of the relationship of granter to feuar. Acheson of Gosford, an Edinburgh burgess who bought himself an estate in East Lothian and feued land in the regality of Kinloss abbey, was related, through Helen Reid his wife, to Walter Reid the commendator. John Wardlaw in Leith feued the kirklands of Garvock parish kirk in Kincardineshire, presumably through his being a relative of Mr John Wardlaw, the vicar, who granted the charter. In any case, many of the most fertile areas which 'came on the market', to use Dr Smout's phrase, those for which one imagines there would be keen competition, lay at a considerable distance from commercial centres.

When it comes to a consideration of economic resources there are dangers in drawing too clear a distinction between the nobility and lairds on the one hand and the commercial and professional people on the other, since such a division tends to lose sight of the fact that most Scotsmen, whatever their occupation, were dependent on and connected

with the land in what was primarily an agrarian economy and agriculturally-based society. There were few burgesses who did not grow crops or keep animals even on a small scale, a fact which emerges clearly from their testaments. Besides, many burgesses were the town-dwelling relatives of nobles and lairds. George Elphinston, bailie of Glasgow, part owner of several ships, who acquired the lands of Blythwood in feu and left an Inventory of almost £3,000 spoke in his will of 'Alexander, master of Elphinston, my chief'.¹⁵ As far as Crown officials were concerned, when we consider how often their salaries were in arrears and were eked out with gifts of customs, wards and escheats, it seems unlikely that many of them could have become rich as a result of office-holding alone unless by the indirect methods of bribery and embezzlement! High-ranking members of the central administration in the mid-sixteenth century like the Justice Clerk and the Clerk Register came from families who had acquired considerable estates over the previous generation or two and it is as members of the landholding rather than the 'Crown-servants' group that they are reckoned in the Table of Feuars. Mr James McGill of Nether-Rankeillour feued 56 oxgangs of the Grange of Lindores, which lay about five or six miles from his own estate in Fife. The Justice Clerk, Sir John Bellenden, and his relatives acquired land in the barony of Broughton and belonging to the Dominican nunnery at Sciennes primarily because they were related to the abbot of Holyrood early in the century and to a commendator at a later date and to the prioress of Sciennes; any

15 Edinburgh Testaments, 1585, CC8/8/17 f.158v (S.R.O.).

additional influence they might have had derived from their being landholders in the district.

In sheer statistical terms, burgesses, lawyers and Crown office-holders figure much less in the feuing of the kirklands than we might be led to believe from generalisations on the subject. These three classes represent only 9% of all the feuars. It is a fact that in a great many cases burgesses tended to feu property lying in a burgh belonging either to a foundations there, such as the parish kirk or private chapels, or to a cathedral, such as the canons' manses, or the 'hospice' of a monastery. Members of the legal profession, who are designated as such in their charters, consisted of four advocates, Mr John Arthur, Mr David Borthwick, Mr Robert Crichton and Mr David Meldrum, three 'writers', Mr John Kene (?Skene), James Bannatyne and Mr Archibald Miller, the remainder being notaries. Among the Crown servants were three individuals merely called 'the king's servant' or the 'queen's servant', David Blantyre, Patrick Cramby and Robert Gib, who probably received their charters through royal influence as much as on their own initiative. Others in this class were John Fenton, clerk of the Rolls, John Wylie, clerk of chancery, and three who undoubtedly carried weight as local landholders rather than as civil servants, and whose offices tended to be hereditary in any case: Walter Urquhart, sheriff of Cromarty, James Sinclair, sheriff-depute of Edinburgh, and Charles Makallister, constable of Tarbert. Mr Peter Young, the king's preceptor, received 3 charters of Arbroath abbey property during the commendatorship of Esme Stewart.

The really significant contrast in group-representation among the

feuars is that between Groups 2 and 4: between those who already held land by heritable tenure and those who, on the whole, were acquiring it for the first time. In this connection it is good to remember that persons whose names only are given (Group 8) were more likely, on balance, to belong to the latter than to the former group.

The Provincial Council of the Church which met in the Spring of 1558/9 deplored the setting of kirklands in long tacks and feu-ferme to others 'than the ancient native tenants, occupiers, and tillers of the lands', urging that where this had taken place and the feuars and tacksmen wished to resign their charters, 'then in that case it shall be unlawful for the said ... prelates ... to admit or receive into possession of the said feus or tacks other tenants who are of greater or higher degree than the resigning tenants are, so long as they are sufficient occupants of, these lands and are able to make payment ...',¹⁶

There are a number of instances of feuars' resignations in favour of kindly tenants and occupants. In 1556 Mr Henry Sinclair, dean of Glasgow, resigned the lands of Lessuden which were feued to 32 occupants on 22 February 1556/7.¹⁷ On 11 June 1568 Alexander Balfour of Denmylne resigned the lands of Newstead 'in favouris of the kyndlie tennentis therof allanerlie.'¹⁸ Arrangements made on the 21 February 1579/80 in the interest of a kindly tenant of the eighth part of the lands of Masterton, in the regality of Dunfermline, show how a piece of land

16 D. Patrick, ed., Statutes of the Scottish Church, 179, 181.

17 Melrose Regality Records, iii, 232 et sequ (S.H.S.).

18 Morton Papers: GD 150 Box 54, 11 June 1568 (S.R.O.).

which had changed hands more than once might return to the occupant in the end.¹⁹ The lands of Masterton were feued to Mr Robert Richardson, the Treasurer, in 1563, were resigned by him and later wadset by the commendator to his brother, Mr John Pitcairn of that Ilk. At the time when the lands were redeemed the commendator signed a document drawn up for the benefit of John Kellock, recognising that 'he and his predecessouris hes bene native and kyndlie tennentis ... and to the eis, weill and commoditie of the said Johnne and his airis.' In return for 'sums of money' the commendator renounced all claim to the property of the eighth part of Masterton in order that Kellock might be infeft in feu-ferme 'as all feus ar set to the remanent tennentis of the lordschip of Dunfermling', which suggests that Richardson's mass-resignations were followed by feu charters to the occupants of the lordship.

It may just be that resignation by non-occupant feuars of kirk-lands in favour of the tenants was more of a business deal than would appear on the surface. It seems reasonable to suppose that the resigning feuar was paid by the tenants: the Masterton document speaks of Kellock's having given money to the commendator but it was a simple matter for Mr John Pitcairn to receive his 'cut' of this. But there may be more to the business than that. In May 1562 Sir John Bellenden, the Justice-Clerk, on the one hand, and four kindly tenants of the lands of Wester Bauchrie, on the regality of Scone, John and William Sowtar, John Dickson and Alexander McKie, on the other, registered a contract

¹⁹ Pitcavie Papers: GD 91/39 (S.R.O.).

which had been drawn up between them.²⁰ The contract narrates that the Justice-Clerk had taken in feu, 'owir thair heidis', the lands of Wester Bauchrie, in liferent to himself and in feu to his son, Louis, of which lands they each occupied a quarter being kindly tenants thereof 'and havying na uthir stedingis to leif upone'. The tenants had promised to pay to Bellenden such sums of money 'as he disbursit' upon his charter if he would resign the lands in their favour. 'Quhilk desire the said Sir Johne gladly accordit unto' and renounced his title in return for their promise to pay him £1,066 13s 4d in three instalments. Since Bellenden had given the commendator, Patrick Hepburn, £1,000 for his charter he was making a profit of £66 13s 4d. The intriguing question arises whether, in fact, the whole transaction was a legal formality and whether it simply means that Bellenden, in the first instance, loaned to the tenants the money to pay for feu charters, which they could not otherwise afford all at once, by the device of having himself infeft in the lands, giving to the commendator £1,000 which he arranged to recoup from the tenants in instalments and with interest. It is a form of money-lending in which those with ready cash may have indulged.

There must have been situations in which a 'middle-man' could jump in and acquire feus in an area where there was local demand for them and subsequently make himself a profit by resigning them to local tenants for sums of money which, put together, exceeded the amount he had paid for his charter. This may help to explain why some feuars resigned in

20 Register of Deeds, v, f.164.

favour of occupants fairly soon after receiving their own charters, since profit-making was their only motive in acquiring the land. Alexander Balfour of Denmylne received his charter, including the lands of Newstead, on 2 April 1568, had it confirmed by the Crown on 7 June and resigned the lands to the tenants four days later.²¹ The evidence of the charters does not suggest that this practice was at all common, though a sprinkling of lands did change hands after being feued, though not always in favour of the occupants. The north Ayrshire laird, Cunningham of Montgreenan, who feued the 20s lands of Doura in the regality of Kilwinning in 1548, resigned them in favour of John Docheon, the occupant, about four and a half years later.²² The Master of Ruthven resigned his feu of the lands of Byris in the lordship of Scone in favour of the occupant Alexander Inglis.²³ The earl of Atholl, who had obtained a charter of three-quarters of Arthurstone, belonging to Coupar Angus abbey, resigned them three years later to Robert Aysoun, another non-occupant.²⁴ Margaret Erskine, lady Lochleven, resigned some of the St Andrews priory lands which she had received from her son, the commendator, in favour of Bruce of Pitlaithie, Learmonth of Balcomie, Colville of East Wemyss and Balfour of Balledmonth, the last mentioned having been her sub-tenant for a few

21 Register of the Great Seal, iv, 1819.

22 Yule Collection: GD 90/1/130, 146.

23 Register of Feu Charters of Kirklands, i, f.204; Register of the Great Seal, iv, 2668.

24 Register of the Great Seal, iv, 1809; v, 2248.

years, he having a lease of the land in question.²⁵ That the situation might be reversed can be seen in the case of James Henryson, occupant feuar of a quarter of the lands of Balquhormock, in the regality of Scone, who later resigned them to James Hepburn of Rollandston.²⁶

Since only a fraction of the land changed hands after feuing, it would appear that the outsiders and middle-men were interested in obtaining heritable possession of kirklands which, held for fixed feuduties, might be expected to prove a profitable venture. As can be seen from the composite table opposite page 233, most of the middle-men who took feus of the lands we have just considered already held land by heritable tenure while just over a fifth were drawn from the commercial and professional classes, including clergy.

When all reservations have been made it still appears that the feuing of the kirklands was somewhat less undemocratic than has sometimes been supposed.

25 Morton Papers: GD 150 Box 40, 2 January 1556/7 (S.R.O.); Register of Feu Charters of Kirklands, ii, f.176; Register of the Great Seal, v, 702; iv, 2103; iv, 2709.

26 Register of the Great Seal, v, 947; Register of Feu Charters of Kirklands, ii, f.294.

Part Three

The Property

Part Three: The Property

Chapter Six

The Types of Property Feued

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The majority of feus are of arable land, often accompanied by the use of pasture, but there are many grants of buildings and premises of various kinds, of mills or part rights in them, orchards, woods and fishings, the last-named being particularly valuable.

Land might be granted under its designation according to 'old extent' - the 5 merkland of Newtoun' or the £5 land of Newtoun'. It might be delineated according to its geographical extent, in acres, husbandlands, ploughgates or oxgangs, or in smaller quantities such as roods, rigs or even 'butts'. In the case of yards measurements are sometimes given. The description may, on occasion, imply the pattern of cultivation, such as 'run-rig' or 'run-dale'. Many charters indicate whether the land has been recently cultivated or is lying waste and there are numerous instances of the use of local land and field names denoting their use, ownership or physical appearance.

Many grants are of lands in and around a settlement: 'the toun lands of', or, in cases where the place was feued as a unit, 'the toun and lands of', these being feued en bloc to an outsider or in small holdings to the individual tenants. Sometimes such a settlement clung around a monastery as in the cases of Scone, Dryburgh, Kilwinning, Coldingham, Newbattle, Kinloss and Lindores. Elsewhere, considerable touns grew up in agriculturally fertile spots such as Lessudden and Newstead (Melrose), Punderlaw (Arbroath), Inveresk and Monktonhall (Dunfermline) and Kincaple and Raderny (St Andrews). Others were

definitely fostered, such as Kethick which began as a cottar village and in 1492 became a burgh of barony for Coupar Angus abbey. Over and above these were numerous farm-touns, not so described in the charters, but which were leased to a large number of tenants and later feued in small pieces.

A variety of property might be 'packaged' together in a feu of lands and premises in a sizeable toun. In 1580 Ninian Bruce, brother of Bruce of Powfoulis, received a feu of 59 acres in the toun of Dryburgh, the names of 16 occupants being mentioned, a house built in the Byregreen of Dryburgh, another one on the east of the toun, next to the fulling mill, and one next to the market cross of the toun, five separate yards, one of them next to the monastery's 'mantill wall', a new yard on the south of the mill-dam and one next to that of sir Mungo Wyllestoun, one of the canons, a yard with three wells built in it on the west of the cloister wall and the right of 'ferry-boat' on Tweed, from the Monks' ford to the south of Howdenheuch.¹

The domain lands of baronies were, in most cases, feued in one piece. This certainly happened with the Mains of Ethie² (Arbroath), Farnwall³ (Breshin), Crossraguel,⁴ Kinghorn-Wester⁵ (Dunfermline), Aberlady⁶ (Dunkeld), Haddington nunnery,⁷ Holywood,⁸ Inchaffray,⁹

¹ Register of the Great Seal, v, 173.

² Ibid., iv, 1605.

³ Ibid., iv, 1764.

⁴ Ibid., iv, 2486.

⁵ Register of Feu Charters of Kirklands, ii. f.234.

⁶ Ibid., i, f.192.

⁷ Ibid., ii, f.116.

⁸ Register of the Great Seal, iv, 3028.

⁹ Ibid., v, 174.

Restenneth¹⁰ (Jedburgh), Strathisla¹¹ (Kinloss), Mauchline¹² (Melrose) and Whithorn¹³, all of which went to non-occupant feuars. The Mains of Brunstoun,¹⁴ on the regality of Crossraguel, and those of Cluny,¹⁵ belonging to the bishop of Dunkeld, were feued to William Kennedy of Brunstoun and Mr Robert Crichton of Eliok respectively, both of whom had previously held these lands by lease. There were one or two exceptions to this pattern of feuing domain lands as units. The Overmains and Nethermains of Kilwinning were feued among 16 occupants, those of Cruquhys and Clene, belonging to Scone abbey, to 2 and 10 tenants respectively and the Mains of Lesmahagow, belonging to Kelso abbey, to no less than 19 resident occupants.

Many abbey Granges were feued. The pattern on those of Coupar Angus varies: there are 7 surviving charters of Balbrogie and 5 for Carsegrange, whereas the whole Grange of Kinreich was given to Thomas Kennedy of Coiff.¹⁶ On the Grange of Lindores 42 oxgangs were feued among 6 tenants and 56 were granted to Mr James McGill of Nether Rankellour, the Lord Clerk Register, in whose charter the names of other 8 tenants are given. The Grange of Culross, lying about two miles from the abbey, was divided, by the sixteenth century, into West, Middle, East and Byregrange, the last three being feued as units in

10 Register of the Great Seal, iv, 1661.

11 Ibid., iv, 1961.

12 Ibid., iv, 1760.

13 Ibid., iv, 2823.

14 Register of the Great Seal, iv, 2952.

15 Register of Feu Charters of Kirklands, i, f.9.

16 Register of the Great Seal, iv, 1380.

1548/9, 1554 and 1558.¹⁷ The Newbattle abbey lands of Prestongrange were feued in 1558/9 to Alexander Hume, son of the laird of Coldenknowes.¹⁸ these consisted of the manor and coalheughs, the Langschot containing 63 acres, Mylhill 12 acres and Hawklaws 7 acres. At the same time Hume had a charter of Newtongrange belonging to the same abbey.¹⁹ The Westgrange and Eastgrange of Kinloss were granted to Dunbars, neither of whom were 'sitting tenants'.²⁰

Neighbouring cultivation patches combined in one charter are often ennumerated separately. Two charters to Alexander Hay of lands in the burgh of Cullen belonging to the collegiate church list 32 individual crofts, naming most of them separately and specifying crofts in 'the Langruiddis', the 'Seyruiddis' and 'the field croftis'.²¹ When Alexander Hamilton in Preston received a feu of the lands and toun of Preston from the commendator of Newbattle these were said to consist of 12 acres altogether, divided into six different 'lots'.²²

In grants of arable land there is frequent mention of 'runrig'. At Caputh, Dulgus, Dulgarthill and Dowally in the barony of Dunkeld, feus to a large number of tenants were of varying numbers of oxgangs 'in runrig', suggesting that the tenants held the land on the 'fixed runrig' system, holding blocks in several places. John Haggart's charter speaks of the middle part of that quarter, runrig, of the lands

17 Register of the Great Seal, v, 984, 1134, 1140.

18 Register of Feu Charters of Kirklands, i, f.144.

19 Ibid., i, f.141.

20 Ibid., i, f.31; Register of the Privy Seal, vii, 543.

21 Register of the Great Seal, v, 582.

22 Register of the Privy Seal, liii, f.101v.

of Wester Caputh occupied by John and his mother, and three riggs of another middle part 'viz: the Craggy-rig in the Querrell-hoill, the Cruikit-rig liand contigue adjacent thairto in the same sched, and the Braid-rig liand in the east and west sydis of the Cobill-gait.'²³

Thomas Innes feued 'six parts of Wester Crolaitts in runrig' in the barony of Strathisla (Kinloss),²⁴ Andrew Hoppringle land near the toun of Blainslie, in the regality of Melrose, 'in runrig',²⁵ and John Jerdan six 'buttis' of land, runrig, near Newbattle.²⁶ Three tenants divided between them the lands of Brochtonscheillis, belonging to Stobo parish church 'lying in runrig' on which they undertook to build, within three years, 'ane stane house with lime ... to keep thair geir frae thevis and reaveris'.²⁷ There is one reference to 'rundale', at Inveresk in Midlothian, in 1556.²⁸

There are numerous instances of local names for crofts, yards, fields and meadows, some of which are of purely agricultural or geographical origin while others derived from their connection with a monastery or church. The latter include the 'pettie commone aikeris', 'the Terrararis medo' and 'the elimosinaria field' at Dunfermline,²⁹ 'the crofts of St Thomas the Apostle' at Dunkeld,³⁰ 'the Vicartoun' at Girvan parish church in Ayrshire,³¹ 'two acres called The-Kirk-Door-

²³ Register of the Great Seal, iv, 2240.

²⁴ Register of Feu Charters of Kirklands, ii, f.244.

²⁵ Register of the Great Seal, v, 1229.

²⁶ Ibid., v, 1248.

²⁷ Register of Feu Charters of Kirklands, i, f.115.

²⁸ Register of the Great Seal, v, 1190.

²⁹ Ibid., v, 185; iv, 2251, 2083.

³⁰ Ibid., v, 1189.

³¹ Ibid., v, 276.

Keyis' at Leuchars parish church,³² 'the Cellareris medo' at Lindores abbey,³³ 'St Michael's acres' in the canonry of Ross³⁴ and the 'priors-croft' at Paisley.³⁵ A glossary of field names is included in the Appendix.

There are occasionally specific details of the physical features or exact position of a piece of land such as 'the shadow half' and 'the sunny half' and, on one occasion, 'the shadow pleuch of the sunny side'. There are references to 'corn lands' and 'beir-lands', including the 'common beirlands of the burgh of Kirkcudbright'.³⁶

A number of charters include pieces of waste-land, and land not previously cultivated, in the canonry of Ross, in Coldingham barony where the lands of Horsely 'which have been uncultivated many years' may have suffered extensive war-damage,³⁷ on the barony of Dunkeld, at Littlehauch,³⁸ 'not previously cultivated', and the yards of Kirk o' Field Collegiate Church 'then completely waste' (1575) - possibly for historic reasons!³⁹ The mill of Coldstream was feued in 1578/9, being described as 'destroyed in the war with the English.'⁴⁰ In 1570 the lands of Elcho were described as being 'devoid of inhabitants', and the kirklands of Errol as 'now waste and vacated by the inhabitants.'⁴¹

³² Register of the Great Seal, iv, 2691.

³³ Register of Feu Charters of Kirklands, i, f.73.

³⁴ Register of the Great Seal, v, 1922.

³⁵ Paisley Register of Feu Charters, f.2, *et passim*.

³⁶ Register of Feu Charters of Kirklands, ii, f.121.

³⁷ Register of the Great Seal, v, 1880.

³⁸ *Ibid.*, iv, 2631.

³⁹ *Ibid.*, iv, 2805.

⁴⁰ *Ibid.*, v, 533.

⁴¹ *Ibid.*, iv, 1939, 1911.

Those who took land like this in feu were doubtless thinking of the profit from reclaimed and re-cultivated land for which they would be charged only a small, fixed feu-duty.

In some cases land had been recently cultivated for the first time or reclaimed from waste or marsh. In charters by the bishop of Caithness between 1556 and 1575 there are several references to newly cultivated lands.⁴² Those of Ballinknock were said to have been 'newly improved', those of Pitgruthie 'newly re-cultivated' and the mill of Migdaill newly built and its croft recently cultivated. Two acres of land at Struthers on the barony of Kinloss, newly cultivated, were feued in 1565 to John Anderson, canon of Orkney, to whom they had previously been leased.⁴³

According to Sir James Balfour it was against the law for the 'place' of an abbey, its yards and buildings to be set in feu-ferme since this prejudiced the rights of the king over his patrimony, he being the patron of the prelacies. Nevertheless, there are many charters of land and buildings in and around monastic precincts and even one or two feus of monastic 'places' themselves. The charter granted in 1565 by John Philp, commendator of Balmerino, to John Kynnear of that ilk of the 'place' of that abbey was declared null in the supreme court five years later, partly because it was 'gevin to the manifest hurt of our said soverane lord and his patrymonie quhome unto

⁴² Register of the Great Seal, v, 1077, 72, 112.

⁴³ Ibid., iv, 1660.

the nominatioun and provisioun of the said abbay appertenes as undoutit patrone therof.'⁴⁴ The Kynnears were able to keep a hold on the property through the laird's son Henry's becoming commendator later in the century. In 1588 in order to put the 'place' of the monastery of North Berwick into the heritable possession of her nephew, Alexander Hume, the prioress resigned it into the king's hands, who then granted Hume a charter of the property.⁴⁵

There are numerous grants of property lying next to monasteries. In 1582 Eame Stewart, then commendator of Arbroath, granted to Lord Ogilvy the tower of the abbey with some yards and the dovecot.⁴⁶ There are one or two feus of the 'barncroft' at Balmerino.⁴⁷ James Murray, brother of the laird of Polmaise, had a feu of gardens in the precinct of Holyrood known as 'the south yairdis of the channonis'.⁴⁸ At Sweetheart abbey Cuthbert Brown was granted a merkland called 'Under-the-Wall', lying on the north of the abbey wall, reserving a strip 3 feet wide to the abbot and convent as a right-of-way.⁴⁹ The word 'orchard' often occurs in the legal jargon of charters but there are cases where we may take it literally; the earl of Rothes feued the orchard and east yard of Lindores with the stanks, hedges and walls surrounding them and 'use of the fruit growing therein',⁵⁰ James

⁴⁴ Balfour's Practiks, vol. i, 171; Register of Acts and Decrees, vol. xlvii, f.14.

⁴⁵ Hamilton of North Berwick Muniments: GD 110/20 (S.R.O.).

⁴⁶ Register of the Great Seal, v, 453.

⁴⁷ Ibid., iv, 3013; Register of Feu Charters of Kirklands, ii, f.209.

⁴⁸ Register of the Great Seal, v, 120.

⁴⁹ Register of Feu Charters of Kirklands, i, f.102.

⁵⁰ Ibid., i, f.81.

Anderson, burgess of Perth, Scone abbey's orchard 'in the Drunhar above the upper mill of Perth',⁵¹ and John Abercrombie, son of the tenant William Abercrombie, the lands of Throsk belonging to Cambuskenneth, containing the abbey's orchard, his feu-duty to contain 1,000 apples and pears.⁵² James Betoun of Creich feued the orchard and 'plowme yaird' of Balmerino.⁵³

Some feuars acquired what can only be described as a 'site' on which they doubtless planned to build or which they intended to turn over to cultivation. John Gregory, a tenant in the Ferrytoun of Portincraig, received a variety of property there, including 'a yard, barn, upper chamber and garden and a little house, pulled down, and the knowe thereof'.⁵⁴ John Auchinlek had a feu from the commendator of Pittenweem of a piece of cemetery land next the chapel of the monastery and 40 feet of the surrounding wall.⁵⁵ Robert Matheson had, from the same priory, a piece of waste ground, 36 feet long and 18 feet wide, under the monastery wall with the 'to-fall' built against it next to the Water Wynd.⁵⁶ Robert Ashindor, of Paisley, had a charter of the land on which the abbey smithy had formerly stood.⁵⁷

A good deal of church property, alienated in feu charters, lay in burghs and episcopal cities. It consisted either of the property of

51 Records of King James VI Hospital, Perth: GD 79/5/44 (S.R.O.).

52 Register of the Great Seal, v, 1292.

53 Ibid., v, 150.

54 Register House Charters: RH 6/2437.

55 Register of the Great Seal, v, 1175.

56 Ibid., v, 2317.

57 Register of the Privy Seal, 1, f.31.

cathedrals, burgh churches and chapels, friaries and monasteries which themselves had an urban location or of land and houses in burghs which had been donated to monasteries in landward areas.

The first included the manses of the cathedral clergy. At Aberdeen charters were granted of those of the prebendaries of Murthlak, Banchory-Devenick and Invernochtie and of the precentor and archdeacon. In 1580 the chancellor of Brechin granted to the precentor at that time, Mr Paul Fraser, a piece of waste ground on which the former's manse had stood, the manse itself being 'now waist and cassin doun'.⁵⁸ The treasurer of Caithness feued both his manse and 'the thesaurarisfeild'.⁵⁹ There are a fair number of charters of manses and other burgh property belonging to the cathedrals of Glasgow, Dunkeld and Moray. At Elgin these included the manses of the treasurer, precentor and subdean and of the prebendaries of Inverkeithing, Botarie and Duffus.

Monasteries situated in burghs which feued property there included the Charterhouse in Perth, Holyrood abbey in the Canongate, Arbroath in that burgh, Culross where one burgess, alone, Thomas Messone, received a feu of 36 separate tenements of land, some of them including houses,⁶⁰ Dunfermline and the priory of St Andrews. The abbots of Kilwinning, Melrose and Scone feued their lodgings in Irvine, Edinburgh and Perth.⁶¹ The archdeacon of St Andrews gave his brother, Mr John Pitcairn, a charter of the 'archidiaconis Innis or Ludgeing' in the north street

⁵⁸ Register of Feu Charters of Kirklands, ii. f.104.

⁵⁹ Register of the Great Seal, iv, 2995; v, 1054.

⁶⁰ Ibid., v, 1103.

⁶¹ Ibid., iv, 2633; Register of Deeds, vi, f.30; Register of Feu Charters of Kirklands, i, f.304.

of St Andrews.⁶²

The various Orders of Friars feued property in burghs. The Edinburgh Dominicans granted a charter of land next to the Cowgate in 1509.⁶³ The Dumfries Grey Friars gave nine roods of land to a burgess, John Birkmyre, in 1555.⁶⁴ The Ayr Dominicans feued a tenement of land in the High Street in 1557 to John Blair of Middle Auchindrane, he being required to maintain it 'in a distrainable condition'.⁶⁵ After the Reformation the Blackfriars of Dundee granted the land on which the friary had stood to Mr David Abercrombie, son of the late William Abercrombie, patron of the monastery.⁶⁶

Property other than arable land, burgh 'tenements' and waste ground with 'site value', which might be expected to bring the feuar additional income included mills, or part rights in these, brewhouses, kilns, ferries and fishings, the last named being particularly valuable. Grants of mills accompanying arable land are too numerous to cite. It is worth noting, however, that these mills sometimes became the heritable property of those who operated them and of tenants of the land on which they stood, as well as of outsiders. The corn mill and the walk mill of Kilwinning were feued to the men who operated them, John Miller and William Walker, whose surnames suggest that their families had worked the mills for several generations.⁶⁷ A share in the mill of

⁶² Register of the Great Seal, iv, 2837.

⁶³ Yule Collection: GD 90/1/77 (S.R.O.).

⁶⁴ Register of Feu Charters of Kirklands, i, f.178.

⁶⁵ Charters of the Friars Preacher of Ayr, no.62.

⁶⁶ Register of Feu Charters of Kirklands, i, f.123.

⁶⁷ Register of the Great Seal, v, 77, 819.

Badlay, in the barony of Glasgow, accompanied grants of land in the feu charters of no less than 21 of the bishop's rentallers.

A local amenity mentioned almost as frequently as the mill is the brewhouse, sometimes called 'the common brewhouse'. Numbers of these were simply conveyed as pertinents of the land being feued and, presumably, carried the same kind of benefits as possession of a mill. Since many people brewed their own ale from the bear crop profits from a common brewhouse must have been less than from a grain mill, to which all tenants and cottars were thirled.

Fishings were often extremely valuable, to judge by the high feu-duties demanded on occasion. Gilbert Collesoun, burgess of Aberdeen, paid £10⁴ commutation for 20 barrels of salmon with £1 augmentation, for half the fishings of 'Raik and Stellis' on the river Dee and the tithes of certain salmon fishings, all of which he and his predecessors had previously held on lease 'for a long time'.⁶⁸ Alexander Knowis, of the same burgh, paid £38 feu-duty for salmon fishings on the river Don.⁶⁹ There are feu charters of fishings on the rivers Stinchar, Girvan, Nith, Ayr, Dee (Galloway), Deveron, Teith, Tay, Eden, Ericht, Findhorn, Spey, Ness and Lossie. Archbishop David Betoun gave a feu of certain fishings on Lochleven to Douglas of Lochleven, in 1544,⁷⁰ and in 1559 other fishings on the same loch were granted to John Shaw by the commendator of Dunfermline.⁷¹ Grants of fishings accompany

⁶⁸ Register of the Great Seal, iv, 2550.

⁶⁹ Ibid., v, 830.

⁷⁰ Ibid., v, 1145.

⁷¹ Ibid., v, 145.

several feus of land in Orkney and Caithness. In 1546 David Crichton of Naughton was given a charter of all fishings belonging to the abbey of Balmerino.⁷² In 1539 the abbot of Kinloss gave the magistrates of Forres a feu charter of extensive fishing rights on the river Findhorn on their renunciation and 'for final agreement between him and them of a case in the court of the Lords of Council'.⁷³ When Adam Dundas of Knock received a feu charter of the lands of Findhorn in 1570/1 it included the liberty to fish in the sea there and a grant of 'ferry-boat' in the bay.⁷⁴ James Colville, son of the laird of East Wemyss, had a grant of certain anchorages at Culross⁷⁵ and John Carnegy, son of Carnegy of Kinnaird, one of the port of 'Coif-haven' at the Sea town of Arbroath.⁷⁶ Other rights of 'ferrie-boat' included that accompanying the lands of Wester Ellochy, near the river Spey, granted to John Grant of Culcabock by the bishop of Moray⁷⁷ and that on Tweed at the town of Dryburgh, granted to Ninian Bruce, brother of Bruce of Powfoulis.⁷⁸ The widow of Patrick Scott, a tenant of the bishop of Dunkeld, and her son, John Scott, were given a feu of the 'Boatland of Wester Caputh', at a point on the river Tay now crossed by a bridge, together with certain fishings, for which they paid a total feu-duty of £2 17s 8d and 1s 8d augmentation.⁷⁹ David Wood, fiar of Craig,

72 Erroll Charters: GD 175/444 (S.R.O.).

73 Register of the Great Seal, v, 2113.

74 Ibid., iv, 2918.

75 Ibid., iv, 1632.

76 Ibid., 1257.

77 Registrum Episcopatus Moraviensis, 367.

78 Register of the Great Seal, v, 173.

79 Ibid., v, 1080.

with his son received a charter of 'the ferryboat and passage of Montrose' and fishings called 'St Thomas' net 'on the river North Esk, paying £6 for the 'ferryboat' rights and £10 for the fishings.⁸⁰

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Any attempt to estimate the amount of ecclesiastical land feued as against that still held by lease or rental at the end of the sixteenth century must be inconclusive. In the case of most sizeable estates some of the lands mentioned in the charters of 'erection' at the turn of the century are missing in the feu charters. For example, 8 do not appear in charters in the case of Holyrood, 16 in that of Kinloss, 21 in that of Kilwinning, 15 in that of Dunfermline abbey's lands in Midlothian, 10 in the case of Scone, 34 in that of Paisley, 29 in that of Newbattle, 36 for the barony of Glasgow and 56 for Arbroath.

Admittedly, a number of these 'missing' territories are crofts and small pieces which may not have been individually specified in feu charters but appear in those of erection of temporal lordships, the lists of lands being very detailed in the latter. On the other hand, of course, there is the perennial proviso, the non-survival of charters. The impression given by the somewhat uneven evidence is that not all regalities and ecclesiastical estates were entirely set in feu-ferme by the Act of Annexation of 1587, though the majority probably were. When feuing was begun on an estate it was not necessarily carried through

⁸⁰ Register of the Great Seal, v, 140.

as a comprehensive programme. As we saw in Chapters One and Four, feuing was often piecemeal and sporadic according to outside pressures and circumstances and information in the Books of Assumptions demonstrates that in the 1560s, or thereabouts, feu-ferme and other forms of tenure existed side by side in many places. The following summary of the 'rental' of Lindores in the Book of Assumptions, volume 1, well illustrates this situation.

Rental of Lindores abbey*

Book of Assumptions, Volume 1, f.36 (S.R.O.)

The Grange, 8 ploughgates	feu-ferme	£68
Berryhoill, 4 "	"	£34
Ormiston, 2 "	"	£15 12s 8d
Haltounhill 2 "	set in liferent	£11 4s
Lumquhat, 2 "	feu-ferme	£ 8 7s 4d
Toft of Woodhead, with Southwood	"	£ 8 10s
East wood, with the teinds	"	£10 13s 4d
The Brewhouse of Grange	"	£ 1
The burgh maills	"	£ 3 16s 8d
Tenants of Newburgh	"	£ 3 5s
Tenement in St Andrews	"	£ 1 6s 8d
Deracht land of Creicht	set for 19 years	£ 2
Toft of Cullesse	feu-ferme	£ 2 6s
Toft of Kynloch	set for 19 years	10s
Brewhouse of Ochtermochtrie	feu-ferme	£ 1 4s
Toft of Auld Lindores	set for 19 years	6s 8d
Cluny easter	feu-ferme	24 merks, 6s 8d
Lodging in Falkland	"	£ 2
Craigend	"	£ 4
Marie croft	set for 19 years	£ 4
Craig mill, with the 'seggis'	feu-ferme	50 merks, 9s 4d
The 'Clayis', with acres of the meadows	"	26 merks
Teinds of above	set for 19 years	10 merks
Reidinch, with the yards	feu-ferme	£80
31 acres in the 'Hauch', 'brodlands' and meadows	set for maill yearly at 2 merks per acre	£42
The Almerycruik	feu-ferme	10 merks
The acres under the wood	set for maill yearly	9 merks
Cowinch and the 'hillock park', the east yard and fishings	feu-ferme	£32

* lands in Fife only

At about the same time 33 lands belonging to the priory of St Andrews were said to be feued, as against 21 still leased.⁸¹ The rental of the archbishopric of St Andrews, as given in the Book of Assumptions, speaks of 'certain lands set in feu-ferme', suggesting that others had not been feued.⁸² In other cases, included in the same source, one has the impression that all or most of the lands were feued. Twenty-nine territories, more or less comprising the estates of Inchcolm abbey, are listed with the memorandum, 'thir landis ar all set in feu and confeirmit.'⁸³ The lands in Fife belonging to the nunnery of North Berwick appear to have been feued, including the Grange of Kilconquhar. On the Mains of North Berwick 23½ husbandlands were feued to Alexander Hume, the prioress's nephew, and 80 to the laird of Bass, the remainder being held on a mixture of tenures.⁸⁴ The lands of Coupar Angus abbey appear to have been mostly set in feu.⁸⁵

Set against the incomplete nature of the evidence and the fact that feu-ferme and leaseholding existed side by side in some areas till well on into the second half of the sixteenth century, is the statement of a tenant of Inchaffray in January 1555/6 that the commendator 'hes fewit all the haill lordschip of Inchaffray',⁸⁶ and the fact that in September 1545 feuing had progressed so far on the lands belonging to the archbishopric of St Andrews that a new rental book had had to be compiled.⁸⁷

81 Book of Assumptions, i, f.12.

82 Ibid., f.1.

83 Ibid., f.13-13v.

84 Ibid., ff.152, 155.

85 Ibid., f.325, *et sequ.*

86 Register of Acts and Decrees, xii, f.472.

87 *Rentale Sancti Andree*, xxviii, 204.

Part Three: The Property

Chapter Seven

Rights and Reservations

Chapter Seven

Rights and Reservations

Basically, the feu charter conveyed the 'property' of the land from granter to grantee, the former retaining the superiority, the right to receive the feu-duty. When the commendator of Dunfermline, having redeemed from his brother, Mr John Pitcairn, the eighth part of the lands of Masterton, resigned these in favour of John Kellock, the tenant, in order that the latter might be infeft in them in feu-ferme, he stated in the usual legal formula: '... be the tennor of thir presentis we for us, our airis and assignis renuncis, quitclamis, dischargis and ourgevis all heretable ryt, titill, enteris, clame of ryt, propertie and possessioun quhilk we have ...'¹ The circumstances at Masterton demanded a separate deed of resignation but, in effect, every feu charter implied such a resignation on the part of the granter. While it follows, in theory, that the feuar held the land with the same rights and privileges as the granter had previously held them the granter could, in drawing up the charter, lay down certain obligations to be observed by the feuar and make certain reservations in his own favour. At the same time the terms of the charter frequently defined the benefits and privileges conveyed with the property.

Some obligations contained in feu-charters were similar to those demanded from lease-holders and rentallers, including such duties as

1 Pitreavie Papers: GD 91/39 (S.R.O.).

carriage services, preservation of boundaries and attendance at the head courts of the barony or regality. In cases where a tenant became the feuar these might simply be 'carried over'. The tenants of Dowally, Dulgarthill and Caputh in the barony of Dunkeld, who had their holdings converted to feus in the 1570s, were required, in addition to their feu-duty, to perform one carriage, providing a horse and servant, and fifteen or twenty loads of peats. William Borrie in Little Dulmernock, in the same barony, was asked for twenty loads of peats and 'ane schort day and ane lang day work with ane horse.'² John Melville in Coldingham, who feued several cotlands there including the one on which he lived, had to give twelve days' work, four in 'turf tyme', four at hay-making and four at harvest, with arriage and carriage 'usitato'.³ Where the feuar was an outsider then, presumably, his sub-tenants continued to render these services.

Other obligations written into charters were of the type not necessarily required previously from tenants but which may, in fact, have been part of the bargain between granter and feuar whereby the former delegated certain burdens of 'estate management' to the latter. George Gordon of Blairdynnie, in receiving a feu of the Haugh of Bogy from the bishop of Aberdeen, was required to build two 'outsettis' near the Castle hill of Dryminnure to guard the marches of Clatt.⁴ David Boswell of Glassmonth was obliged to make improvements to the lands of

² Register of the Great Seal, v, 1212.

³ Ibid., iv, 2430.

⁴ Ibid., v, 1035.

Cullello, in the regality of Dunfermline.⁵ John Cairns, who received a feu of some ruined houses in St Andrews, from the commendator of the priory, undertook to repair and rebuild them within four years to the value of £40.⁶ Similarly, John Auchmowty, kinsman of the chaplain of the Virgin Mary of Skeoch, in Stirling, agreed to recultivate the yard belonging to the chapel to the value of £20 in ten years.⁷ When Thomas Alexander feued the kirklands of Stobo parish church it was laid down that he and his heirs must reside there and that he should build houses and plant nine plantations of trees.⁸

Many granters included in charters well-defined reservations to themselves of certain rights in and use of the property. In the next chapter this point will be discussed in relation to the parish kirklands, this present section taking account of property belonging to the bishoprics and monastic houses.

Although there are many grants of mineral rights and some of coal-heuchs and salt pans themselves there are at the same time instances of the reservation of these amenities. The abbot and convent of Paisley, in giving a feu of half the lands of Nether Gallowhills to John White, the occupant, reserved to themselves the use of all stone quarried in the locality; John and his father, as it happened, were quarriers working for the abbey.⁹ The commendator of Melrose reserved the use

⁵ Register of the Great Seal, v, 798.

⁶ Laing Charters, no.468.

⁷ Register of the Great Seal, iv, 1630.

⁸ Yester Writs: GD 28/537 (S.R.O.).

⁹ Register of the Great Seal, iv, 2077.

of coal, mined on land feued to Hamilton of Sanquhar, during any period when he, the commendator, happened to be staying at his castle at Mauchline.¹⁰ In another charter of land near Mauchline, granted in this case to Adam Cunningham in Ayr, the commendator allowed Cunningham to use coal found on the land 'without undue interference or damage to the soil', which seems to be a ban on deliberate mining.¹¹ Other reservations of this kind include the provision in a charter of Inchmahome lands to Alexander Erskine that fuel from the land must not be sold or used by him or his sub-tenants,¹² and the reservation of ten stones of all lime found on the lands of Wester Kinghorn to the monastery of Dunfermline.¹³ The same house reserved every ninth load of coal from Natoun, at Musselburgh, and all coal mined on the lands of North Lathanis, in Fife.¹⁴

On the commonty of Eyemouth, several pieces of which were feued to inhabitants of that toun, William Hume in Whitrig was obliged to preserve a 'way' on three sides of the portion feued to him so that 'kartis and wains' could easily pass to and from the priory.¹⁵ An interesting reservation occurs in a charter by the prior of Monymusk in 1580 where a house standing behind 'the place' was set aside for a school, for the instruction of the youth at the church of Monymusk: 'pro ludo literario'.¹⁶

10 Register of the Great Seal, iv, 159.

11 Fraser Charters: GD 86/174 (S.R.O.).

12 Register of the Great Seal, iv, 1027.

13 Register of Feu Charters of Kirklands, ii, f.234.

14 Ibid., i, f.246; Register of the Great Seal, iv, 1837.

15 Register of Feu Charters of Kirklands, ii, f.206.

16 Register of the Great Seal, v, 1267.

Much more common than reservations in the interests of the granters are the rights and privileges conveyed to the feuars. No doubt the word 'permission' when it appears in charters often represents agreement on the part of the superior with the request or demands of the feuar. After all, people paid for feus and expected to receive value for money which, to many of them, probably meant more than simply heritable possession. There can be no doubt that many feuars saw economic possibilities in the acquisition of the property hence the reason why numbers of them were prepared to put down large sums for their charters.

We shall look first at property which carried in it the possibility of economic and financial profit.

There are five feus of salt pans at Culross: one granted to Robert Colville in 1539/40,¹⁷ one to Gilbert Primrose in 1581,¹⁸ another to Walter Callendar in the same year,¹⁹ two to John Porterfield in 1586²⁰ and two to Alexander Craw in 1587.²¹ That acquired by Gilbert Primrose was under construction at the time and was resigned to him, with other pieces of land in the burgh, by another burgess. The grant to Alexander Craw included a piece of waste ground and two buildings for stabling and for storing grain. Colville's charter describes the salt pan which he had built 'from the foundation' on a piece of waste ground belonging to the abbey. In February 1539/40 he

¹⁷ Laing Charters, no.442.

¹⁸ Register of the Great Seal, v, 1043.

¹⁹ Ibid., v, 913.

²⁰ Ibid., v, 1270.

²¹ Ibid., v, 1284.

was granted the salt pan, the land on which it was erected and five roods of land round about with liberty to build store houses and a stable for the horses working the pan and to dig coal and use it for salt making, with permission to open up new coal heuchs if necessary. Colville was, of course, the commendator's brother, hence the extensive privileges granted to him.

Private speculation in the Culross coal-workings is associated with their exploitation towards the end of the sixteenth century and beginning of the seventeenth by Sir George Bruce, whose father had had a grant of land from the commendator of Culrose in 1540.²² I have found no direct grants of coal heuchs among the Culross charters before the Acts of Annexation of 1587 and only two cases where the use of coal is implied, apart from the licence to Robert Colville to use coal for his salt pan and to mine more if necessary. The grant of the lands of Boirdie to the brother of Robert Calendar of Maner in 1581 included use of 'fishings, salt pans, mines and the service of tenants.'²³ On 31 January 1574/5 the three 'heretible feuaris and fermoraris' of Lurge were given all the commendator's 'rights, titill and possessioun' of these lands because 'thai have a part of thair ground waistit and underminit be onskilfull colliaris and workmen and likelie to be dailie mair and mair waistit and undirmynit and deteriorat sua that thai sall nocht be abill to pay to us and our successouris thair fermes and dewties.'²⁴ This seems to be a transfer of mineral rights which the

22 Register of the Great Seal, iii, 2869.

23 Ibid., v, 913.

24 Cardross Writs: GD 15/237/2 (S.R.O.).

commendator had reserved in an earlier charter, illustrating the difficulties which might arise where use of mineral resources was not conveyed with the land. It also suggests that those working the coal heuchs could thus come under the authority and supervision of the feuars of the land.

In the case of Dunfermline, practice varied with regard to the feuars' use of minerals. On the one hand the abbey reserved a certain amount of coal from the lands of North Lathanis, Natoun and Wester Kinghorn and, on the other, granted feus of the actual coal heuchs of Kelty, Woolmet and Wallyford and Carberry to Douglas of Lochleven, James Richardson of Smetoun, the Lord Treasurer's son, and Mr Hugh Rig, respectively.²⁵ The charter to Douglas of Lochleven of the coal mines of Kelty-heuch contains express licence to sell the coal for his profit. Coal heuchs belonging to Newbattle abbey were also set in feu, those of Newtongrange to Alexander Hume, son of the laird of Coldenknowes,²⁶ and those next to the lands of Prestongrange to John Blacadder of Tulliallan.²⁷

In the charter to Thomas Nevin of lands at Monkredding, granted by the abbot of Kilwinning in 1539,²⁸ the word 'carbonibus' appears in the legal jargon of the 'tenendas' clause but, in fact, there were coal-workings on the lands which contributed towards Nevin's prosperity after he received his charter. Allan Stewart, commendator of Cross-

25 Kinross House Papers: GD 29/862 (S.R.O.); Register of the Great Seal, iv, 2659; Ibid., iii, 2941.

26 Register of Feu Charters of Kirklands, i, f.141.

27 Ibid., i, f.142.

28 Register of the Great Seal, iii, 3245.

Opposite: Part of Douglas of Lochleven's charter of the coalmines of Kelty, granting him permission to sell the coal for his own profit. (SRO Ref.: GD 29/862)

raguel, feued the coal heuch of Yellowlee on the lands of Craigoth to his brother, the laird of Cardonald,²⁹ and included coal pits in the charter of the Mains of Brunstoun to William Kennedy, who had previously held the lands on lease.³⁰ John Stewart of Arntully was given licence to make new coal heuchs on the lands of Dalmarnock in the lordship of Dunkeld.³¹ In March 1543/4 James Stewart, brother of Lord Ochiltree, and father of the future commendator of Inchcolm abbey, received a charter from the last abbot of the barony of Beath and neighbouring territories including the Coilheuchlands, with the coal pits there.³² Three feuars of Pittenweem priory, Andrew Wood, Hugh Moncrieff and Andrew Simpson, all received licence to use the minerals in their lands: the eighteenth century Inventory on which a note of their charters occurs gives no further details.³³ Another of the priory's feuars to receive 'underground rights' was William Cockburn, whose charter was confirmed in January 1536/7.³⁴ By a charter confirmed under the Privy Seal in February 1576/7 Michael Balfour of Burley received a feu of all the coal mines on the lands belonging to Pittenweem.³⁵

On the whole, though not invariably, feuars of industrial property, such as coal heuchs and salt pans, tended to be 'middle-men' rather than

29 Charters of the Abbey of Crossraguel, i, 65.

30 Register of the Great Seal, iv, 2952.

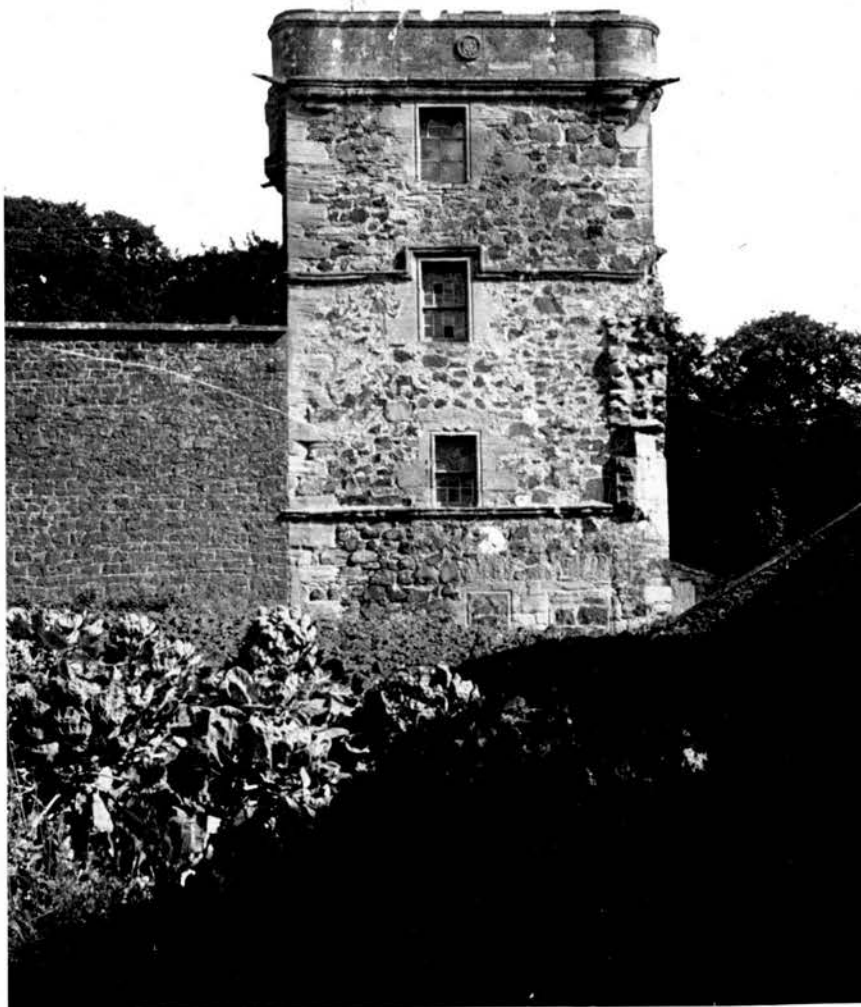
31 Register of Feu Charters of Kirklands, i, f.86.

32 Register of the Great Seal, iii, 2915.

33 Pittenweem Writs: GD 62/1 (S.R.O.).

34 Laing Charters, no.402.

35 Register of the Privy Seal, vii, 915.



Above: Monimail Tower, Fife: feued by Archbishop Hamilton to Sir James Balfour of Pittendreich when it was in a ruinous condition and rebuilt by the latter.
(Photograph: Royal Commission on the Ancient and Historical Monuments, Scotland)

tenants or, if they were tenants, were men of reasonable means and local influence. Whereas the miller and his family could feu the mill and thereafter operate it as a piece of heritable property among themselves, or the profits of a mill could be fragmented among a number of tenants, it took someone with financial resources to operate coal mines, to organise their maintenance and labour and to market their output. Thus it was primarily the lairds who feued industrial property, becoming the new, secular masters of the colliers and salters.

Permission to build or to repair existing structures, however, was granted to all kinds of feuars.

In September 1564 the future Sir James Balfour of Pittendreich, then 'Mr James Balfour', received from archbishop John Hamilton the manor and place of Monimail with the green in front of it, the building then said to be so waste and ruinous that it could not be repaired without great expense - a common enough excuse for feuing. Balfour rebuilt the 'palace' of the archbishops of St Andrews and set his initials and coat of arms on the parapet in 1578.³⁶ In February 1562/3 Patrick Hepburn, as commendator of Scone, and James Hepburn 'in Perth' entered into a contract by which the commendator feued to Hepburn his lodging in Perth on the understanding that the latter would carry out extensive repairs and rebuilding 'to the grund as neid beis'. The hall and chamber were to be built over vaults with 'lichtis as thai ar or bettir' and the house to be 'thekit with sclait'; a reproduction of

³⁶ Leven and Melville Papers: GD 26/3/468 (S.R.O.).

part of the agreement appears opposite page 274.³⁷

In January 1558/9 an ex-patriate Ayrshireman, John Campbell, son of an Ayr burgess, was given a third of the lands of Chappeltoun by abbot Donald Campbell of Coupar Angus with permission 'edificandoque mansionem ac faciendo politiam solo correspondentem'.³⁸ Liberty to build on land of which they obtained feu charters was granted to Francis Douglas at Reidspttal in East Lothian, belonging to the collegiate church of Dunglass,³⁹ to the earl of Cassillis who was given space in which to build a kitchen and stable onto a newly-constructed house belonging to a prebendary of Maybole collegiate church,⁴⁰ to Alexander Duchell who obtained a piece of waste ground in Dumbarton, belonging to the parish church, on which to build a house,⁴¹ and to the sheriff of Cromarty who agreed to rebuild the manse of the prebendary of Kirk-michael in Ross,⁴² the house having been burned, and to William Tweedy, burgess of Edinburgh, who was granted land belonging to the parish church of Linton, beside the river Lyne, on which to build a house, barn and yard.⁴³

There are one or two instances of permission to build mills. In 1576 Robert Leslie of Dewglie feued the kirklands of Athie and Murehead from the bishop of Ross, with licence to build a mill there, though he

³⁷ Register of Deeds, vi, f.30.

³⁸ Register of the Great Seal, iv, 1779.

³⁹ Register of Feu Charters of Kirklands, i, f.213.

⁴⁰ Charters of the Abbey of Crossraguel, i, 70-1.

⁴¹ Register of Feu Charters of Kirklands, ii, f.105.

⁴² Register of the Great Seal, v, 716.

⁴³ Register of Feu Charters of Kirklands, i, f.83.

was still required to pay his dues to the mill of Rosemarkie.⁴⁴

Robert Campbell of Kinzeancleuch received a charter of the mill stead of the Haugh mill of Mauchline with permission to build a walk mill on it.⁴⁵

James Hamilton, brother of the laird of Haggs, was permitted to build a walk mill at Couttis in the barony of Monkland belonging to Newbattle abbey,⁴⁶

James Hoppringle had a charter of the mains of Coldstream and the mill 'waistit and destroyit', with power to rebuild it.⁴⁷

The possession of a walk mill would undoubtedly benefit a feuar who carried on sheep farming to any reasonable extent. When the feu of a mill did go to an outsider this probably affected the situation of the tenants and may even have caused a certain dislocation in rural economy. When Thomas Crawford of Jordanhill received a feu of the mill of Partick this included the miller's house, occupied by John Paton.⁴⁸

Andrew Wilson, who had a charter of the walk mill of Culross, was given power to arrange for its working, a fairly comprehensive licence.⁴⁹

The Over mill of Balmerino was granted to John Kynnear, a local laird, 'with power over all husbandmen and cottars thirled to the mill.'⁵⁰

Similarly, some feuars were given power to build a brewhouse, or alehouse. Alexander Leslie received a feu of a croft belonging to Coupar Angus abbey called 'Boghill' on which he was permitted to build

⁴⁴ Register of the Great Seal, v, 2112.

⁴⁵ Register of Feu Charters of Kirklands, i, f.301.

⁴⁶ Register of the Great Seal, v, 2331.

⁴⁷ Register of Feu Charters of Kirklands, i, f.307.

⁴⁸ Register of the Great Seal, iv, 2199.

⁴⁹ Register of Feu Charters of Kirklands, ii, f.331.

⁵⁰ Ibid., ii, f.77.

an alehouse, with a piece of ground on the north of the market cross of Kethick on which to build a house.⁵¹ Andrew Powry, feuar of the same abbey, was allowed to put a common brewhouse on 4 acres of the lands of Carsegrange.⁵²

A miscellany of other privileges is found in the charters, including the right to cut trees for building and other purposes,⁵³ tolls such as the grant of customs from the market held at the gate of Coupar Angus abbey to Alexander Leslie in 1581,⁵⁴ or the right to claim wreck from the sea granted in the same year to Mr Peter Young by the commendator of Arbroath⁵⁵ and in 1563 to George Dunbar by the bishop of Caithness.⁵⁶ In 1564 Patrick Hepburn, as commendator of Scone, gave a charter to John Smith, 'smith' in Denmylne, in Forfar, of the 'smiddie and smiddie-croft' with 'the haille thirle of the irne werk of owre landis of Angus usit and wont' - a profitable monopoly.⁵⁷

John Craigo in Wolfhill received a variety of privileges in addition to the lands of Over Campsy: 'where it shall be lawful to retain the common malt-house and with common pasture for animals, a place in the "Monkmyre" for digging turf and fuel, part of the customs of the abbey Fair held before the gate of the monastery every Friday, and a piece of waste ground on the north of the market cross and

51 Register of Feu Charters of Kirklands, ii, f.222.

52 Register of the Great Seal, iv, 1791.

53 Ibid., v, 1137, 1141; Register of Feu Charters of Kirklands, ii, f.70.

54 Register of Feu Charters of Kirklands, ii, f.222.

55 Register of the Great Seal, v, 190.

56 Register of Feu Charters of Kirklands, ii, f.100.

57 Register of the Great Seal, v, 931.

cukstule, 24 feet by 16 feet where he may build a house.⁵⁸ In 1573 James Murray of Pardewis was given a charter of the 'terraris meadow' at Dunfermline abbey with the liberty of hay-making on it and on the neighbouring Windmillhill.⁵⁹

Grants of pasture are as common as those of mills, being either attached to certain lands or on commonlands and moors. The extent varied considerably from the right to pasture animals anywhere in the barony of Spittall where there were no crops, granted by the bishop of Aberdeen to his mistress, Janet Knowis,⁶⁰ to pasture for 6 cows granted to William Fendure, tenant of Balmerino, with 6 acres of land in Scarbank.⁶¹ Most grants are of common pasture but in some cases specific limits are set both to the amount of grazing and to the number of animals. John Fethy, who had a charter of the mill of Foddismylne with kilns and granaries, also received 8 'sowmes' of grass in pasture on the Grange of Abercrombie belonging to Culross abbey.⁶² David Liddell in West Barns was given pasture there for 8 oxen and 2 horses by the provost of Dunbar collegiate church.⁶³ David Hird was granted a croft in the town of Easthouses, belonging to Newbattle abbey, with pasture for 20 sheep and 20 cows and liberty to cast peats there.⁶⁴ Pasture might be reserved on occasions: in granting the kirktown of Daviot to Alexander Leslie of Pitcaple, the bishop of Aberdeen reserved

⁵⁸ Laing Charters, no.973.

⁵⁹ Register of the Great Seal, iv, 2251.

⁶⁰ Ibid., v, 829.

⁶¹ Register of Feu Charters of Kirklands, ii, f.277.

⁶² Laing Charters, no.507.

⁶³ Register of the Great Seal, iv, 2227.

⁶⁴ Register of Feu Charters of Kirklands, ii, f.258.

to the tenants the common pasture in the kirk glebe of Daviot and liberty to cast peats.⁶⁵

It can be seen, then, that the granting of certain rights and privileges with feus of arable land and other property had the effect either of settling in a family's permanent, heritable possession resources and facilities which they had already held and enjoyed on a less secure basis, or gave to 'outsiders' and 'middle-men' a share in, or supervision over, local rights and amenities which were essential to the rural economy but which the feuars could thereafter exploit in their own interests. At the same time, any of these privileges could be withheld by the granters, who could also add obligations and duties as their part of the feuing bargain.

⁶⁵ Register of Feu Charters of Kirklands, ii, f.57.

Part Three: The Property

Chapter Eight

The Feuing of the Parish Kirklands

Chapter Eight

The Feuing of the Parish Kirklands

The title of this chapter is slightly inaccurate since we are concerned here not only with the lands attached to parsonages and vicarages but also with those belonging to chaplainries within the bigger churches, especially those in burghs, and with those of private chapels, some of which were 'chapels of ease' in highly-populated areas or in sparsely-populated but extensive parishes.

In several ways the pattern of feuing on the parish kirklands differed from that on other ecclesiastical property. Chronologically, the granting of charters was spread evenly over the sixteenth century, with one dating from 1473; even the 'peak' year, 1560, saw the granting of only 15 charters, out of a total of nearly 300, which can scarcely be called a landslide. Nevertheless, about 71% of the charters date from after the Reformation settlement. The percentage of feus to occupants, 25%, is small compared with that on the estates of bishoprics and monasteries, though in this connection it should be mentioned that in a number of cases the grants are of small crofts and pieces of land 'occupied' by resident vicars, curates and chaplains themselves or cultivated by their servants, not always leased to tenants whose rights might be prejudiced by subsequent feuing.

The feuars fall into the following groups:

<u>Group</u>	<u>Number of Feuars</u>	<u>Percentage of the whole</u>
1 Nobles and their relatives	15	c. 4%
2 Known lairds and persons designated 'OF', with their relatives	127	c. 38%

<u>Group</u>	<u>Number of Feuars</u>	<u>Percentage of the whole</u>
3 Burgesses and their relatives	58	c.18%
4 Persons designated 'IN', or who are known to have been below the class of laird, with their relatives	43	c.13%
5 Clergy, with their relatives	23	c. 7%
6 Lawyers	4	c. 1%
7 Crown servants, not otherwise designated	2	-
8 Persons whose names only are given; doubtful cases	58	c.18%
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	330	
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Almost a quarter of the charters, 24%, were given to persons who shared the granters' surnames or who were stated to be related to them. No doubt there were other cases where the two were related though this may not be apparent in the charters. Many feuars were local lairds and others with influence in the neighbourhood, some of whom had previously held the land on lease. In a case where the feuar's territory marched with those of the parish kirk, he would often be prepared to pay for land with which to round off his estate or holding. Just over half the burgesses in the above table feued land attached to churches, chaplainries and private chapels situated within the burghs in which they lived. In other cases where the feuars were burgesses the usual influences were at work. Alexander Mowat, burgess of Irvine, who feued the kirklands of Dreghorn, probably belonged to the family of Mowat of Busbie, who were prominent in that

parish.¹ John Wardlaw in Leith, who acquired the kirklands of Garvock in Kincardineshire, was probably a relative of the perpetual vicar, Mr John Wardlaw.² William Tweedy, burgess of Edinburgh, who feued the vicarage kirklands of [West] Linton, was in all likelihood a member of the Peeblesshire family, Tweedy of Drummelzier.³ James Williamson, bailie of Dalkeith, who was given a substantial charter of lands belonging to the altar of St Thomas in the parish kirk of Douglas, no doubt had behind him the influence of the earl of Morton who granted the charter as tutor of the young earl of Angus, patron of the chaplainry.⁴ Mr Robert Auchmowty, vicar of Stirling and chaplain of the Chapel of the Virgin at Bannockburn, gave lands belonging to the chapel to his relative John Auchmowty, younger, burgess of Edinburgh, whose father was a burgess of Stirling.⁵

Whereas prelates had a reasonably free hand in feuing the temporalities of their benefices, and were often in a position to put pressure on those whose consent was necessary to the transaction - particularly the convents of monasteries - the holders of parochial benefices were under greater restraint, at least in theory, since many of them were not the ultimate superiors of the land in question and had, therefore, to obtain the consent of the appropriating body, or of ecclesiastical or lay patrons.

The extent to which local influence might determine the pattern

1 Register of Feu Charters of Kirklands, ii, f.210.

2 Ibid., ii, f.63.

3 Ibid., i, f.83.

4 Register of the Great Seal, iv, 2180.

5 Ibid., iv, 1630.

of feuing on parish kirklands is suggested by the fact that there are only 13 charters of churches in lay patronage, 7 of them being of lands of unappropriated parishes. This suggests that landholders were reluctant to allow the alienation of lands in which they had a direct interest, unless the charter went to a relative or friend. The rights of a patron were particularly strong in the case of altarages and private chapels since the chaplain 'held' the lands - or, rather, the rents from them - in return for religious services while the patron still regarded the lands themselves as his patrimony. Eighteen charters of land annexed to altars and to private chapels were granted to the near relatives of patrons.

The preambles to the charters contain a variety of reasons for feuing, including general financial help, the payment of taxes, personal necessity and the outright payment of sums of money by the feuars. In 1563 David Stewart, canon of Glasgow cathedral and parson of Erskine, feued the lands of Blythwood to George Elphinston in return for money 'to pay debts contracted during the late troubles'.⁶ In 1539 David Blantyre, servant of James V, gave the parson of Kincardine, canon of Aberdeen, £100 for repairs to the church. The charter was granted with the consent of the king, patron of the prebend.⁷ Repairs were also given as the reason for feuing the kirklands of Cockpen,⁸ and

⁶ Register of the Great Seal, iv, 1785.

⁷ Ibid., iii, 2024.

⁸ Ibid., iv, 3018.

Dalry⁹ in Ayrshire. Perhaps the 200 merks given to the perpetual vicar of Bothkennar 'to pay the tax laid on the prelates for defence of the realm' was really for the benefit of the superior, the prioress of Eccles, who gave her consent to the charter which was granted to her kinsman, John Hamilton.¹⁰

Fairly large sums were occasionally paid for feus of parochial kirklands: £60 for those of Bolton, 200 merks for Cruggleton, 300 merks for Dunscore, 110 merks for East Wemyss, 400 merks for Monyvaird and £30 for North Berwick. In 1565 Patrick Learmonth of Dairsie paid 500 merks for a tenement of land in St Andrews with the teinds of certain fishings belonging to Holy Trinity church there because as a result of the change in religion, so it was claimed by the vicar, the fruits and profits of the vicarage had been 'reduced within narrow and meagre degrees'.¹¹

The charters represent parishes from all over the country with the exceptions of the sheriffdom of Selkirk and the counties of Sutherland and Caithness. In the following list of sheriffdoms the figures in brackets indicate the number of parish churches of which the kirklands were set in feu: Ayrshire (19), Perth (14), Edinburgh principal (13), Lanark (13), Inverness (12), Aberdeen (12), Wigtown (12), Kirkcudbright (11), Forfar (11), Linlithgow (11), Dumfries (10), Haddington (10), Argyll (7), Stirling (7), Renfrew (7), Roxburgh (6),

9 Register of Feu Charters of Kirklands, i, f.191.

10 Register of the Great Seal, iv, 1946.

11 Register House Charters: RH 6, no.1993.

Peebles (6), Berwick (6), Elgin and Forres (6), Banff (4), Kincardine (4), Dunbarton (2), Orkney (1) and Shetland (1).

In the case of unappropriated churches the parson might feu all the lands attached to his church. In the case of appropriated parishes the temporalities fell into two classes, those pertaining to the parsonage and those set aside for the vicar, including the manse and glebe. The picture is complicated by the fact that while on most occasions kirklands are feued by the individual holding the parsonage, perpetual vicarage or vicarage pensionery, they are sometimes feued directly by the head of the appropriating institution.* In 1549 the 'president' and chapter of Aberdeen, in absence of the dean, with consent of the bishop and of sir Thomas Carlile, the vicar, feued the kirktown and glebe of Glenbuchat to Alexander Thommulson and Helen Carlile, his wife.¹²

The charters reveal how the lands with which the parish churches had been endowed over the centuries varied in extent from one parish to another. The vicarage kirklands of Liberton contained 22 acres of arable land, those belonging to the parsonage of Strabok, in Linlithgowshire, 11 acres 'prius per quondam Mr John Dingwell, rectorem de Strabok conquestas et rectoribus dicte ecclesie mortificatas'. The vicarage kirklands of Binning, in the same sheriffdom, contained 30 acres, those of Dunscore 10 acres, those of

¹² Register of the Great Seal, v, 859.

* Details of the granters of parish Kirklands are given in Chapter Four and in Appendix 3.

Leuchars 13 acres, those of Stevenston over 24 acres, those of Cockpen 10 acres, those of Pearston 17 acres and those of Restalrig 44 acres. The charter of the kirklands of Kilchuslane in Kintyre lists 10 separate territories.

In some parishes the kirklands consisted of scattered bits of land no doubt donated or acquired at various times: these are sometimes feued in one charter. The vicarage kirklands of Liberton contained 12 acres called 'the Priestishill', 9 acres lying at the Bridgend of Craigmillar and an acre and a husbandland in the town of Gilmerton 'on the back of the Mains thereof'.¹³ Those of the vicarage of Inverness included 2 roods in the burgh, an acre in the field called 'the Shipland' and a croft in the town of Essie.¹⁴ The perpetual vicar of Stevenston feued 5 acres called the 'kirklandfens', 3 acres adjacent, on the north, 1½ acres called 'the kilakir', 6 roods of land in the 'Holme', 6 roods called 'the priestishill', 3 acres at Corsinkell, a piece of land lying on the south of the church, 6 acres of Wester Dubbs and an acre called 'the priestisfauld', to the heir of the local laird, James Campbell of Stevenston.¹⁵ The perpetual vicar of Tongland parish church, sir William Sharpro, who was possibly a canon of the abbey, feued 2 crofts of arable land with the chapel-lands of St Salvator, the three days' work field called 'the vicar's meadow' and the 'chapel yaird'.¹⁶

¹³ Register of Feu Charters of Kirklands, i, f.139.

¹⁴ Register of the Great Seal, iv, 2482.

¹⁵ Ibid., iv, 2802.

¹⁶ Ibid., v, 782.

Sometimes small pieces of land, crofts and waste ground were given to those who occupied them or who had an eye on them with a definite purpose in mind. A piece of land annexed to the parsonage of Chirnside, called 'the Chirnside acre', was feued to sir Adam Learmonth who occupied it. A piece called 'the parson's isle' at Melport, with the fishing belonging to the parson, was feued to John Campbell of Inverlver, who already held it, presumably on lease.¹⁷ The vicar pensioner of Dumbarton gave to Alexander Duchell of Ardochbeg, a neighbouring laird, a piece of waste ground in the burgh on which to build a house.¹⁸ The vicar of Kinneill feued 'the vicaris croft' to George Crawford in Kinneill who already leased it¹⁹ and the vicar of North Berwick a croft next to North Berwick Mains to the occupant, Alexander Carrick, a burgess there.²⁰ The vicar of Stirling gave to his kinsman, Robert Auchmowty, son of a Stirling burgess, a piece of the vicarage garden with a ruined house, said to be 50 feet square, and 'long ago built upon it'.²¹

As in charters of non-parochial ecclesiastical property, feus of parish kirklands were often accompanied by certain privileges. Pasture rights, transferred from parson or vicar to feuar, are mentioned in charters of the kirklands of Abercorn, Cambusnethan, Cumnock, Carrington, Dreghorn, Gogar, Largs, Methlick, Monimail, Oldhamstocks, Stobo, Strathaven and West Linton. The grant of the

17 Register House Charters: RH 6, no.1691.

18 Register of Feu Charters of Kirklands, ii, f.105.

19 Register of the Great Seal, v, 431.

20 Ibid., iv, 1612.

21 Ibid., v, 1206.

glebe and manse of Carriden to Patrick Crummy, in 1544/5, included pasture there for 'one horse, two cows, one brood sow, brood geese' and common pasture in the commonty.²² There were feus of mills with the kirklands of Kincardine, in Aberdeenshire, Dull and Dowally, and fishing rights with those of Cargill, Leuchars and Lessuden. David Hamilton of Fingalton received the moss adjacent to the 'vicar's flat' of Tranent.²³ In 1580 Neil Campbell, parson and vicar of Craginsh, made James Campbell, alias McNeill, possibly his son, bailie of his kirklands.²⁴

One important consideration in connection with the feuing of parish kirklands is that of the alienation, or reservation of the manse and glebe, set aside, first of all, for the use of the priest who was, nominally, in charge of the parish and, later on, for the minister. The provincial councils of the church in Scotland which met in 1549, 1551/2 and 1559 all laid down that on no account must the manse and glebe be feued or set in long leases, 'unless for good reasons previously considered, section by section, in general or provincial council or synod, and found to tend to the benefit of these same churches, and not only to the private advantage of the individual possessors, but also to the advantage of their successors in perpetuity.'²⁵ The edicts of the provincial councils are perforated

22 Register of Feu Charters of Kirklands, i, f.29.

23 Ibid., i, f.181.

24 Register of the Great Seal, v, 131.

25 D. Patrick, Statutes of the Scottish Church, 97, 141, 159, 179: Quotation taken from first page mentioned.

with loop-holes and this one is no exception. An earlier sentence in this statute runs 'no infeftments or leases in feu-ferme, or tacks for a long time, of any glebes, to be granted by parsons or vicars in person': presumably these could be granted by the appropriating institution without infringing the letter of the law! Moreover, the feuing of the manse and glebe was thought to be criminal because it was set aside for the use of the man who was supposed to be ministering in the parish, but how many vicars, even vicars pensioner, were resident? The fact is that many parishes were in the hands of paid substitutes who had no legal claim on such amenities - the curates who often receive an unwarrantably bad press - who lived on the meanest of salaries while their beneficed, non-resident superiors feued the land which was specially intended to support the parish priest. Nearly all of the 26 feus granted directly by the appropriating institutions are of the entire kirklands of the parishes in question: in only one is the glebe reserved and in 7 it is specifically mentioned as being included in the feu. Nineteen feus by cathedral and other higher clergy include the glebe while in 41 cases it was alienated by the vicars themselves. The glebe was also feued by 6 of the parsons of unappropriated churches.

Fifteen glebes were alienated in this way before the Reformation. In March 1544/5 Patrick Crummy, already referred to, received from sir Archibald Wotherspoon, the perpetual vicar, a charter of the manse and glebe of Carriden, in West Lothian, which was said to consist of 3 acres of arable land in the easter manse, an acre in wester Carriden, an orchard called 'the delf' running to the sea and 'the house, manse

and yard of Carriden'. In the winter of 1543 sir John Jackson, perpetual vicar of Swinton, feued to John Swinton of that ilk the kirklands 'with the glebe belonging to the vicarage because these were laid waste by the English and the vicar and his predecessors have derived nothing from them.'²⁶ Three years before the Reformation James Dalzeil, burgess of Edinburgh, received a feu of the kirklands, glebe, barn and barnyard belonging to the vicarage of St Cuthbert's parish, Edinburgh.²⁷ In the spring of 1560 Mr Patrick Vaus, parson of the unappropriated parish of Wigtown, gave a charter of the kirklands, including the glebe, to Alexander Vaus of Barnbarroch.²⁸

After the Reformation, one of the most important achievements of which was the recovery of a 'resident' parish ministry, parliament endorsed the earlier enactments of provincial councils by forbidding the feuing of manses and glebes. In June 1563 it was laid down that ministers were to be given possession of the manse and glebe and that if there was no suitable dwelling one was to be built at the expense of parson, vicar or feuar and sufficient land for a glebe attached to it.²⁹ Prohibition by parliament, however, failed to stem the feuing of glebes and manses which, in fact, accelerated in the post-Reformation era. Charters were granted not only by the pre-Reformation benefice-holders in an attempt to narrow the gap between long-established tack-duty and the rising cost of living and in order

²⁶ Swinton Charters: GD 12/117 (S.R.O.).

²⁷ Register of Feu Charters of Kirklands, i, f.183.

²⁸ Ibid., i, f.70.

²⁹ A.P.S., ii, 539.

to recoup themselves for the additional outlay of their 'Thirds', but also by ministers who had come into possession of vicarages, who used feuing as a means of supplementing their sometimes inadequate stipends, and by lay presentees to benefices.

Delegates to the General Assembly complained on one occasion that known 'papists' were alienating the kirklands 'to defraud of the kirk'. An example of this would be the charter of the kirklands, manse and glebe of the vicarage of Bassindean granted, in January 1573/4, to the brother of Hume of Coldenknowes by sir Andrew Currie, the vicar, who on at least one occasion got on the wrong side of the law for non-conformity.³⁰ The feuing of glebes must often have caused disputes with ministers who were trying to effect their possession of them. In 1573 Lord Seton tried to prevent the demarcation of 4 acres of land within the kirklands of Kirkliston by the Superintendent of Lothian on behalf of the minister, Mr William Strang, in implementation of an act of parliament of 1572, saying 'that the said kirkland pertenit to him of auld in few and that the act of parliament culd not stryke upoun his auld fewis'. When the Superintendent suggested that they refer the interpretation of the act to the Lords of Council, Seton replied that 'he wald suffer na land to be meitt; he knew the act als weill as ony did'. The case was remitted to the Privy Council with the explanation that 'unles he had bene partie to haif fochin with him, the said Superintendent culd gett na land mett'.³¹ The feu charter

³⁰ Register of the Great Seal, iv, 2196.

³¹ Register of the Privy Council, ii, 313-14.

of the domain lands, kirklands and mill of Kirkliston had been granted to Lord Seton's father by archbishop David Betoun in 1543.³² There is no record that his 'auld few' was ever confirmed.

In 56 cases, however, the manse and glebe are mentioned as being reserved for the use of vicar, minister or reader of a particular parish, details in the reservation clauses sometimes throwing light on the living accommodation provided for the man in charge of the parish and on how much land and other amenities he enjoyed over and above the statutory 4 acres. A general reservation of the manse and glebe occurs in charters of the kirklands of Killenane, in Argyll, Kilbirnie, Binning, Carmunnock, Culvend, Kelton, Kirkpatrick-Duran, Sorbie, Terregles, Peebles and Cruggleton. The vicar of Swinton, who granted his charter in 1543, reserved two houses adjoining the entrance to the kirkyard, called the kirkstyle, with four pieces of land behind these houses and a garden and pasturage for a horse.³³ Sometimes only arable land was exempt from the feu as in the case of Girvan where two acres on the west and two on the east of the church were reserved,³⁴ Caerlaverock, where the vicar reserved two acres and half a day's work of meadow lying on the north of the church as his glebe,³⁵ and at Dunrod³⁶ and Kinclaven.³⁷

32 Clerk of Penicuik Muniments: GD 18/459 (S.R.O.).

33 Swinton Charters: GD 12/117 (S.R.O.).

34 Register of the Great Seal, v, 276.

35 Register of Feu Charters of Kirklands, i, f.203.

36 Register of the Great Seal, v, 1989.

37 Register of Feu Charters of Kirklands, ii, f.242.

On the other hand, the granter was occasionally interested only in the manse, or even in part of the accommodation there. This was so in the cases of Ancrum, Balhelvie, Caldercleir, Dalmeny, Dunlop, Inchinnan, Leslie, where the vicar also reserved enough ground in which to sow 2 bolls of bear, Stanehouse, Aberdour, Dull, Weem and St Cuthbert's, Edinburgh. In 1571 sir Walter Robertson, the vicar of Aberdour, gave to John Robertson, there, probably a relative, a charter of the manse and 'place' pertaining to the vicarage 'with the tail and garden thereof' on the High Street of Aberdour, reserving to himself 'a chamber over the north side of the door of the manse with the cellar under that chamber', which John undertook to repair as well as the whole manse 'if it seems good to him'.³⁸ In the Spring of 1560 sir Thomas Neilson, the vicar, feued the kirklands of Stanehouse reserving the manse to the former vicar, Mr Matthew Stewart, who was still living there.³⁹ In 1563 John Ros, burgess of Inverness, promised to rebuild parts of the manse for the accommodation of the vicar and his servants, the vicar being the Treasurer of Moray.⁴⁰ In 1557 George Dunbar, canon of Fortrose, as parson of Kilmure and vicar of Rosemarkie, granted the parson's manse in the canonry of Ross and the vicar's croft in the burgh of Rosemarkie to Janet Thomson, in liferent, and to George Dunbar her eldest son in feu, entailing the property to George's brothers, Patrick and John, with the proviso that they should receive him, the vicar, in the manse. If, as is likely,

³⁸ Register of the Privy Seal, vi, 1373.

³⁹ Register of the Great Seal, iv, 1703.

⁴⁰ Ibid., iv, 2482.

George, younger, was the vicar's son, the latter was, in effect, granting himself, with his family, heritable possession of the house in which they may have been living.⁴¹ In his recent article in the Aberdeen University Review, Mr Alasdair Stewart has shown how the vicar of Dundee, Robert Wedderburn, provided for his family in a similar way.⁴²

There are occasional reservations of what might be called the 'offices' of the manse. Just after the Reformation, on 17 August 1560, a charter was granted in name of Claud Hamilton, dean of Dunbar, by his father and administrator, Chatelherault, to William Douglas of Whittinghame, of the glebe and kirklands of Whittinghame in which a sufficient yard and barn for gathering in the teinds and the manse itself was reserved 'pro ministro vel eo qui vice dicti Claudi in dicta ecclesia fungeretur'.⁴³ In March 1572/3 Mr John Row, minister of Perth, feued the kirklands of his vicarage of Kennoway to John Betoun of Balfour, reserving the principal manse 'inhabitit be him of befoir' with a yard to the south, 4 acres of land 'according to the act of parliament' and 'a barn and barnyard for ingathering of the teinds'.⁴⁴

In the case of the kirklands of Currie, Ancrum and Ballingry, reservations were made by the parsons who feued them. In 1539 Patrick Stewart, archdeacon of Lothian and parson of Currie, reserved 'the lower house called the archideinis chalmer', with sufficient space in

⁴¹ Register of Feu Charters of Kirklands, ii, f.278.

⁴² Aberdeen University Review, (1970), 403.

⁴³ Register of the Great Seal, iv, 1696.

⁴⁴ Register of Feu Charters of Kirklands, ii, f.314.

the barnyard for the teinds.⁴⁵ Mr James Thornton, canon of Glasgow, feued the parsonage kirklands of Ancrum, in 1565/6, to David Symmer, an Edinburgh burgess, reserving the manse to the vicar⁴⁶ but, on the other hand, the parson of Ballingry, Mr William Braidfute, kept for himself the principal manse, orchard and a few acres of land.⁴⁷ The parsons of the unappropriated parishes of Durris, Ecclesmachan, Penicuik and Wigtown reserved their manses while the parson of Parton, which was also unappropriated, although he reserved the manse and certain yards for himself, set aside another house with 2 acres of land, a day's work of meadow and certain pasture for the vicar who deputised for him.⁴⁸

In three pre-Reformation charters reservations were made in favour of the parish priest. In July 1560, at the 'eleventh hour', Mr John Thornton, precentor of Moray, in feuing the kirktown of Aberchirder, set aside the manse, yard, croft, house and other buildings with some pasture for sir John Innes, the vicar pensioner, who then occupied them.⁴⁹ Sir William Richardson, perpetual vicar of Langton, reserved a croft on the east side of the church, with pasture for a horse, to Kentigern Hume, the curate, in 1539,⁵⁰ and Mr Thomas Kennedy, perpetual vicar of Penpont, reserved 5 acres at the church to the curate, sir Thomas Grierson, in 1545.⁵¹

45 Miscellaneous Collections: GD 1/208/1 (S.R.O.).

46 Register of Feu Charters of Kirklands, i, f.223.

47 Ibid., ii, f.235.

48 Ibid., i, f.223.

49 Ibid., i, f.134.

50 Laing Charters, no.434.

51 Register of the Great Seal, v, 1161.

After the Reformation the right of the minister to the manse and glebe is mentioned in charters of the kirklands of Alves, Renfrew, Fernis, Whittinghame, West Kilbride, Pearston, Kells, Kirkmaiden, Monzievaird and Ochiltree. In the last-named the reservation is part of the text of the Crown confirmation, which states that ratiification 'should not be in prejudice of the enjoyment of the manse and glebe by the minister of the Word, according to act of parliament'. In this way the crown modified the terms of the original charter which had conveyed to Andrew Stewart, Lord Ochiltree, the whole kirklands, reserving the manse with its garden to the vicar, David Crichton.⁵²

Another case of alteration, this time to the text of the original charter itself, is the Crown confirmation of the feu of the kirklands of Monzievaird granted in 1556 to John Murray, brother of the laird of Ochertyre. The text of the charter, as given in the Register of the Great Seal and in the Register of abbreviates of feu charters of kirklands includes the words 'reservand always the manse and yaird with fewall and elding to the sustentatioun of the minister dwelling thair to instruct the people'. This sentence must have been added at the time of confirmation since it is difficult to credit the presence of a minister at the church in 1556 even though Alexander Gordon, bishop of Galloway, who, as commendator of Inchaffray, to which the church was annexed, re-issued the charter in favour of Murray in 1557, was a supporter of the Reformation before 1560.⁵³

52 Register of Feu Charters of Kirklands, i. f.277.

53 Murray of Ochertyre Muniments: GD 54/2/9 (S.R.O.); Register of The Great Seal, iv, 2061; Register of Feu Charters of Kirklands, i, f.67.

The vicar of West Kilbride, Mr Archibald Crawford, reserved the glebe, manse and yards then occupied by John Maxwell, the reader.⁵⁴ At Kells 4 acres of the glebe were set apart to the minister 'or reidar of the prayeris'.⁵⁵ In one or two places provision was made for those clergy who had previously been in charge of the parish and who went on living there, though they did not take office in the Reformed kirk, which means that in some parishes the minister and ex-parish priest may have shared the glebe, and even the manse, between them. At Dalry, in Ayrshire, 6 acres and a house in the kirklands were reserved to John Rankin, the vicar pensioner, in another source called 'curate'.⁵⁶ Sir Henry Whitehead, vicar of Kirkpatrick-Irongray, was given the manse and three acres of land in the feu charter granted by the parson.⁵⁷ At Liberton a house and yard were reserved for sir Adam Sanderson, the vicar pensioner, by the perpetual vicar and the commendator of Holyrood.⁵⁸ At Mochram a chamber, croft and garden were set aside for the curate, sir Alexander Brown, in 1562.⁵⁹ Provision of this kind for the curate by the benefice-holder must have been customary in many places at an earlier period and may have been the ground on which sir Andrew Mitchell, curate of Mauchline, raised an action in 1562 against Campbell of Kinzeancleuch and others who had evicted him from the 'gleib and kirk-

⁵⁴ Register of Feu Charters of Kirklands, ii, f.160.

⁵⁵ Register of the Privy Seal, vii, 1016.

⁵⁶ Register of Feu Charters of Kirklands, i, f.191; Boyd Papers: GD 8/163 (S.R.O.).

⁵⁷ Register of Feu Charters of Kirklands, i, f.274.

⁵⁸ Ibid., i, f.139.

⁵⁹ Register of the Great Seal, iv, 1687.

land of the perochie kirk of Mauchlene extending to four akeris and ane half ...', claiming that they had done so 'wrangously'. Unfortunately his case disappeared from the record before a decision was reached, though he was, at one stage, permitted to summon witnesses.⁶⁰

Although Mauchline was, technically, a vicarage pensionery, Mitchell is never so designated during the case and his predecessor, sir James Mitchell, was called 'curate' in the 1520s.⁶¹ The fact that Melrose abbey uplifted the 'corsepresandis' from the parish suggests that a stipendiary priest was in charge.⁶²

The feuing of lands annexed to the parish churches sometimes affected the position of tenants who lived on and cultivated them and of lairds and others who had held them on lease. Charters occasionally give a list of 'occupants', many of whom would be non-resident leaseholders, since, by the sixteenth century the bulk of the parish kirklands appear to have been set in tack. At the same time the term 'occupant' may refer to the actual cultivators of the kirktowns and arable land around the church, who also held the land by lease.

There were 5 'occupants' of the kirklands of Auchinleck, 9 on those of Kilmalcolm, 8 on those of Ancrum, 11 at West Kilbride, where two of them shared the glebe with the reader, 10 at Kilbirnie, including the laird of Glengarnock, 4 at Dreghorn and 7 at Kilbarchan. In some cases the glebe had been leased prior to feuing, as at

60 Register of Acts and Decreets, xxiv, f.250.

61 Protocol Book of Gavin Ross, nos.726, 975.

62 Morton Papers: GD 150 Box 54 (1528) f.17 (S.R.O.).

Ballantrae, Dunlop, where the manse was 'occupied' by Allan Dunlop, Sanquhar, Dalgety and Dunscore. At Renfrew 3 acres next to the kirk-yard were 'labourit' by Patrick Hay, while some of the parsonage lands of that parish were leased to some 'citiners' of Glasgow.

The adverse effects of leasing the manse and glebe are graphically described in a letter which Mr John Young, minister of Wigtown, wrote in 1581/2 to the laird of Barnbarroch, administrator of the priory of Whithorn:

'My lord ... I haff thocht gud to advertis your L. that, at my last being in Edinburch, I purchast a presept and direction from the kirk to John Duncansoun, to desing me my gleib and mans ... in the mein tyme I wad the possessoris war removit, for John Millikin and Wille Culloche, hes sa purit that land this four yeir bygayn, withowt ony enner guding, that it is not abill to rander ony frut, and yet [they] wald stik still with the same, alleging a tytill of tax, and quhat guid payment your L. gettis for the same your L. knawis ... bot this your L. sall not forget, to caws richard campbell to seis all that is in Wille Cullochis howss to your L. instans, for gif he knawis that he man flit, he will care all away, and leff the howss bare of insyght and loftein, as John Waus did quhen he red fra the same, and leff no thing bot the bair wallis.'

A few months later the minister reported to the laird that his manse had been broken into, explaining that he had tried to repair it himself:

'... quhen wille Culloche departit he left that dour oppin, quhairthrow the beddis sydis, and loftein was stollin, and takin away, besydis this it wes all revin abone and the loftis and gestes rottin, as your L. sall persave at metinge, and all thingis that I haff renewit ar in place, for quhow I resavit that place Patrick Blayne [provost of Wigtown] can testiffe.'⁶³

63 Correspondence of Sir Patrick Wans, ii, 236, 258 (published by the Ayr and Wigton Archaeological Association).

Feuars who were occupants of parish kirklands consisted of 27 'resident occupants' and 25 who were probably 'non-resident' leaseholders, in addition to a few cases where the situation in this respect is not quite clear. Some occupants were lairds whose predecessors had held the land before them. James Small of Kettins, who received a charter of the kirklands of that parish, is described as 'old and native tenant',⁶⁴ as is a smaller tenant, John Guidlat in Strabock, feuar of the kirklands there.⁶⁵ Thomas Robesoun is described as 'auld possessour' of the glebe and kirklands of Kippane.⁶⁶ Thomas Buchanan had held the kirklands belonging to Drymen parish church 'for about 30 years' prior to receiving his charter.⁶⁷ On the other hand, David Barclay of Mathers had his tack of the kirklands of Arbirlot, granted in April 1540, converted to a feu charter a month later.⁶⁸ David Blantyre had his liferent of lands belonging to the parsonage of Kincardine, in Aberdeenshire, converted to a feu.⁶⁹ The glebe and kirklands of Kelton, granted to George Muir in Halmyre, had previously been 'possessed and laboured' by his late father.⁷⁰ In 1562 the lands of Aberuthven parish church, then said to have been 'formerly occupied' by John Mercer, were feued to Paul Cunningham by the commendator of Inchaffray but two years later Mercer regained them by a charter granted

⁶⁴ Register of the Great Seal, v, 831.

⁶⁵ Ibid., v, 814.

⁶⁶ Register of Feu Charters of Kirklands, 1, f.131.

⁶⁷ Ibid., 1, f.311.

⁶⁸ Register of the Great Seal, iii, 2905.

⁶⁹ Ibid., iii, 2024.

⁷⁰ Register House Charters: RH 6/2298 (S.R.O.).

on Cunningham's resignation.⁷¹

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As in the case of lands belonging to parsonages and vicarages, those of altarages in the parish kirks and of private chapels were of varying extent and consisted of arable land, houses and, occasionally, the glebes set aside for the chaplains themselves. The lands belonging to the chaplainry of the Virgin in Crail parish church extended to 11½ acres beside the burgh,⁷² those of St Thomas's altar in Douglas parish church to 18 oxgangs with half the mill of Dolphinton,⁷³ those of the chaplainry of St Katherine in Inverness parish church to over 15 acres.⁷⁴ The glebe and kirklands of St Katherine's chapel at Kilbarchan contained 6 separate territories and extended in rental to £10 lands.⁷⁵ On the other hand, many feus are of crofts, yards and small pieces of ground. In one case a chapel itself was feued with the lands, that of St Katherine at the West Port of Perth.⁷⁶

Five chaplains of St Mary's church, Dundee, feued arable land belonging to their altars in the 'Westfield' of that burgh, while those of the chapels of St Mary and St Clement there granted charters of their mansees with some adjoining ground to two Dundee burgesses. Between 1506 and 1573 land belonging to six of the chaplainries and

71 Montrose Writs, i, 95 (Inventory in S.R.O.).

72 Register of Feu Charters of Kirklands, ii, f.223.

73 Register of the Great Seal, iv, 2180.

74 Ibid., iv, 2760.

75 Ibid., iv, 1600.

76 Register of Feu Charters of Kirklands, i, f.291.

one of the prebends of St Giles' kirk, Edinburgh, was alienated, the feuars being five Edinburgh burgesses, one of Aberdeen and two 'writers'. Some of this property was arable land, at Cramond-Regis and Craigcrook, the remainder being houses belonging to the chaplains in the Cowgate, the High Street, the 'ovir Bow' and next to the church itself. Mark Carruthers, the Dumfriesshire notary, who held the chaplainry of St Christopher in the burgh of Dumfries and the altar of St Nicholas in the parish kirk, granted 2 acres of land belonging to the former to George Maxwell, provost of Dumfries, and a tenement called 'the Newerk ... having the king's common street on all sides' to John Edgar, burgess, reserving a room in the latter for his own use.⁷⁷

A number of chaplainry lands were feued to those who occupied them. At Crieff sir Andrew Turnbull, chaplain of the altar of St Michael in the parish church, divided his lands of Pitteneane between Alexander Glas and sir Thomas Glas, the 'occupants', reserving a portion for himself.⁷⁸ Alexander Bogill 'in Kirkburne of Cambuslang' was given $3\frac{1}{2}$ acres of the chapel of that name with certain buildings including a malt-kiln.⁷⁹ James Brown in North Queensferry feued 2 acres there belonging to the chapel of St James 'which he and his predecessors have enjoyed'.⁸⁰ At Kirkintilloch, sir John Crawford divided the lands of Dunteblay, belonging to the chapel of the Virgin, between William Rowchat and John Fleming, each designated 'colono' of the lands.⁸¹

77 Register of Feu Charters of Kirklands, i, f.309; Register House Charters: RH 6/2056.

78 Register of the Privy Seal, ii, 3497, 3498.

79 Register of the Great Seal, iv, 1657.

80 Ibid., v, 735.

81 Ibid., iv, 2310, 2311.

John Orknay in Ayton, who acquired 4 acres and a rig of land from sir William Orknay, chaplain of St Mary in the parish church, must have lived in the vicinity even if he did not cultivate the lands.⁸²

Alexander Moneypenny, merchant, burghess of Perth, received a tenement of land in the North Gate of that burgh, belonging to a chaplain in St John's kirk and lying next to 4 'butts' of land which he already possessed.⁸³

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Perhaps dislocation in the pattern of landholding and tenancy was mitigated in the case of the parish kirklands and those of altarages and private chapels by the fact that much of the interest shown in the feuing of this kind of property was 'local'. Even where feuars were 'non-occupants', they tended to live in, or have connections with, the neighbourhood, particularly in the case of lairds. Most burghesses feued property belonging to churches in the burghs in which they lived, or in landward areas to which their families belonged.

In any event, the feu charters which have come to light in the sources examined represent slightly less than a third of the parishes in Scotland during our period and only a fraction of the hundreds of altars within churches and of private chapels up and down the country.

⁸² Register of the Great Seal, v, 1317.

⁸³ Register of Feu Charters of Kirklands, i, f.313.